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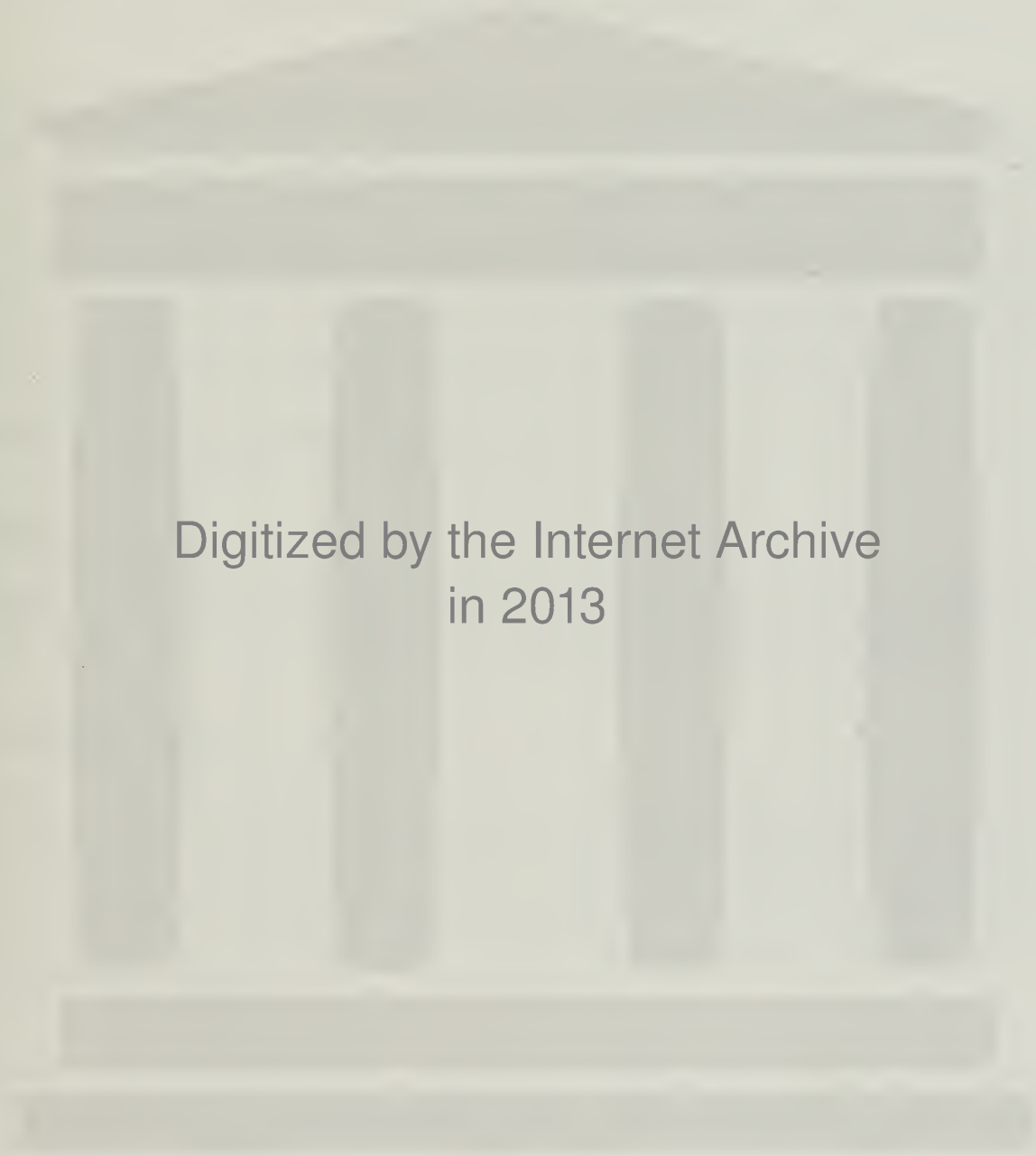

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

REGULAR MEETING - WEDNESDAY, JANUARY 9, 2002

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

(2) **COMMISSIONERS COMMENTS & QUESTIONS.**

(3) **SPECIAL ITEM(S):**

ITEM A: Consideration and final adoption of amendments to Rules of the Board regarding briefing schedule and addition of procedures for requests for rehearing and jurisdiction.

(4) **ADDENDUM ITEM(S):**

ITEM A: 1432-1434 Kearny Street. Letter from Steve Atkinson, attorney for permit holders Nan & Nathan Roth, requesting rehearing of Appeal Nos. 00-258/259/260/261, Cooper & Kirkham vs. DBI PDA & Kuhn vs. DBI, PDA, heard August 22, 2001. Upon motion by Commissioner McInerney, the Board voted 4-1 (President Chin dissented) to REVOKE both permits. Appellants: Josef Cooper Tracy Kirkham, and Alan Kuhn. Project: To demolish a garage, and construct a three-story two-family dwelling.

ITEM B: 1000 Bowdoin Street. Letter from Janice Guan, appellant, requesting rehearing of Appeal No(s). 01-169, Guan vs. DBI, PDA, heard December 5, 2001. Upon motion by Commissioner McInerney, the Board voted 4-0-1 (Commissioner Cullum absent), to uphold the subject penalty.

ITEM C: 3628 – 22nd Street. Letter from Robin Rudderow, attorney for appellant Don Keely requesting rehearing of Appeal No(s). 01-172, heard December 12, 2001. Upon motion by President Chin, the Board voted 4-0 to recuse Commissioner McInerney. Afterwards, upon motion by Commissioner Cullum, the Board voted 4-0-1 (Commissioner McInerney recused) to uphold the subject permit on condition that the roof deck include an eight-foot lattice fence with vines along the side of the roof deck that faces the appellant's property. Permit Holder: Peter Birmingham Project: install roof deck within envelope of building.

ITEM D: Letter from Retts Scauzillo, Requestor, asking that the Board take jurisdiction Building Permit Application No(s). 2001/11/16/3409. Permit Holder: Cheryl Sena. Project: remov stove and sink. and remove ground floor kitchen.

Date permit issued:	November 16, 2001
Last day to appeal:	December 1, 2001
Jurisdiction request received:	December 24, 2001

(5) **CONSENT ITEMS:** With the consent of the Department of Building Inspection, the Board w proceed to a vote without testimony to reduce the penalty (investigation fee) to two times th regular fee as provided for in the Building Code. Without consent the Board will take testimony an then decide the appeal.

(5A) **APPEAL NO. 01-234**

VALENTIN GUAJARDO, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[1151 Naples Street.
[Appeal for refund of penalty imposed c
[December 14, 2001, for work done without
[permit.
[APPLICATION NO. 2001/12/14/5325.
[FOR HEARING TODAY.

(5B) **APPEAL NO. 01-240**

RAYMOND GUARAGLIA, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent

[700 Vermont Street.
[Appeal for refund of penalty imposed c
[December 19, 2001, for work done without
[permit.
[APPLICATION NO. 2001/06/20/1935.
[FOR HEARING TODAY.

ITEMS (6A) & (6B) SHALL BE HEARD TOGETHER:

(6A) **APPEAL NO. 01-081**

WEST CORK HOTEL LLC, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[144 Eddy Street.
[Zoning Administrator Determination dated Ap
[24, 2001, addressed to Randy Shaw of th
[Tenderloin Housing Clinic, that the previo
[tourist hotel use, the Empress Hotel, located
[the North of Market Special Use District No
[was a non-conforming use under Planni
[Code Section 180, that the tourist hotel use h
[been discontinued for a continuous [period of
[least three years and tourist hotel use [may r
[be re-established except in compliance w
[present requirements of City Code
[applicable.
[PUBLIC HEARING HELD & CLOSE
[OCTOBER 24, 2001.
[FOR FURTHER CONSIDERATION TODAY.

19

(6B) **APPEAL NO. 01-082**

EMPRESS LLC, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[144 Eddy Street.
[Zoning Administrator Determination dated April [24, 2001, addressed to Randy Shaw of the [Tenderloin Housing Clinic, that the previous [tourist hotel use, the Empress Hotel, located in [the North of Market Special Use District No.1 [was a non-conforming use under Planning [Code Section 180, that the tourist hotel use has [been discontinued for a continuous period of at [least three years and tourist hotel use may not [be re-established except in compliance with [present requirements of City Codes as [applicable.
[PUBLIC HEARING HELD & CLOSED [OCTOBER 24, 2001.
[FOR FURTHER CONSIDERATION TODAY.

(7) **APPEAL NO. 01-141**

ESMERALDO NOCON, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[951-957 Mission Street.
[Appealing a Notice of Violation dated August 8, [2001, alleging that the subject property at 951-957 [Mission Street is being used for business or [professional offices that do not provide on-site [services to the general public with out benefit of [Conditional Use (CU) authorization from the [Planning Commission, in violation of Planning [Code Section 219(d).
[FOR HEARING TODAY.

(8) **APPEAL NO. 00-161**

ROBERT T. HOLLAND,
dba "EDWARD II BED & BREAKFAST",
Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[3155 Scott Street.
[Order to Cease Violation of the Planning Code [dated September 11, 2000 for billboard [exceeding 24 feet in height constructed without [proper permits on the west-facing wall of the [building.
[PUBLIC HEARING HELD & CLOSED DEC. 6. [2000.
[FOR FURTHER CONSIDERATION TODAY.

4 50349 SFPL: ECONO JRS
33 SFPL 03/12/04 56

(9) **APPEAL NO. V01-135**

GRAHAM SCHNEIDER, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[740 Church Street.
[Appealing denial on August 9, 2001, of a Lot
[Size Variance (subdivide existing 6,355sf lot
[and create a new lot that is 1,752.75sf with the
[remaining corner lot being 4,602.25sf, with the
[existing building remaining on the corner lot).
[PUBLIC HEARING HELD & CLOSED OCT. 10,
[2001.
[FOR FURTHER CONSIDERATION TODAY.

(10) **APPEAL NO. 01-194**

CLYDE & LISA IKEDA, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING COMMISSION DISAPPROVAL

§ 14 Principal(s): RICHARD GARCIA, ROBERT & DOROTHY CHAN

[2252 Beach Street.
[Appealing denial on October 16, 2001, of Site
[Permit to Alter a Building (third floor addition
[interior remodel, one-story addition with
[terrace above located at rear)
[APPLICATION NO. 2000/10/20/3640S.
[PUBLIC HEARING HELD & CLOSED
[DECEMBER 12, 2001.
[FOR FURTHER CONSIDERATION TOD

(11) **APPEAL NO. V01-179**

STEPHEN GOLDSTEIN, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[1331 Green Street.
[Appealing denial on October 4, 2001, of Rea
[Yard Variance Modification (construction of
[new single-family home at the front of th
[subject lot).
[VARIANCE CASE NO. 2001.0592V.
[FOR HEARING TODAY.

(12) **APPEAL NO. 01-180**

ANDREAS W. KATZ &
JUDITH POWELL KATZ, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[255 Chestnut Street.
[Protesting issuance on September 28, 2001, t
[Stuart Fuss, Permit to Alter a Building (replac
[and repair windows and roof, lower roof line, c
[west side of cottage wall and footing to corre
[property line encroachment; remodel bathroon
[electrical and plumbing).
[APPLICATION NO. 2001/09/28/9492.
[FOR HEARING TODAY.

(13) **APPEAL NO. 01-181**

BRIAN O'FLYNN,
PETER FAZIO & SHARI FAZIO. Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[1600 Mission Street.
[Appealing a Revocation Request dated [September 27, 2001 for Building Permit [Application(s) 9926146, 2001/01/00/28974 and [2001/06/60/81174.
[FOR HEARING TODAY.

(14) **APPEAL NO. 01-183**

ROBERT PASKER
& LAURIE PITMAN, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[2266 Vallejo Street.
[Protesting issuance on October 2, 2001, to Bill [Davenport, Permit to Alter a Building (interior [remodel, including new garage and addition to [the rear and side of building, reduce from five [units to four units).
[APPLICATION NO. 9913124S.
[FOR HEARING TODAY.

ITEMS (15A) & (15B) SHALL BE HEARD TOGETHER:

(15A) **APPEAL NO. 01-161**

KWOK WAI YAN, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[415 Naples Street.
[Protesting issuance on September 6, 2001, to [Amy Lam, Permit to Erect a Building (3-story [single family dwelling, 34'2" in height, with [1,239sf of ground floor area).
[APPLICATION NO. 2000/09/08/0019.
[FOR HEARING TODAY.

(15B) **APPEAL NO. 01-162**

DONNA SHAREE, Appellant
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[415 Naples Street.
[Protesting issuance on September 6, 2001, to [Amy Lam, Permit to Erect a Building (3-story [single family dwelling, 34'2" in height, with [1,239sf of ground floor area).
[APPLICATION NO. 2000/09/08/0019.
[FOR HEARING TODAY.

(16) **APPEAL NO. 01-158**

TRIBECCA PROPERTIES, LLC, Appellant
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING COMMISSION DISAPPROVAL

§ 14 Principal(s): MARK & MARY LIPIAN

[290 Union Street.
[Appealing denial on August 31, 2001, of Permi
[to Alter a Building (exterior modifications and
[addition of a fourth story, a two-car garage, a
[rear extension, and changes to exterior finishes
[on an existing one-family house).
[APPLICATION NO. 2000/12/05/7228.
[FOR HEARING TODAY.

ADJOURNMENT.

Note: Each item on this agenda may include the following documents:

1. Appellant's statement and rebuttal brief.
2. Permit holder's response and rebuttal brief.
3. Department decision, permit, determination or resolution.
4. Public correspondence.

These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter.

Date posted: January 3, 2001

MEMBERS OF THE BOARD OF APPEALS

ARNOLD Y.K. CHIN	PRESIDENT
SABRINA N. SAUNDERS	VICE PRESIDENT
CAROLE S. CULLUM	COMMISSIONER
ALLAM M. EL QADAH	COMMISSIONER
JOHN E. MCINERNEY, III	COMMISSIONER

EASTELLER BRUIHL - OFFICIAL COURT REPORTER 348-0050

PROCEDURE AT HEARINGS

The order of presentation of an appeal shall be as follows: In the case of appeal of denials, revocations and suspensions the representatives of the department, board, commission or person from whose order the appeal is taken shall speak first and shall be allowed seven minutes for their presentation and three minutes for rebuttal.

The appellant whose permit has been denied, revoked or suspended shall be allowed seven minutes for oral argument and three minutes for rebuttal.

In the case of protest appeals, the protestor shall speak first and shall be allowed seven minutes to present oral argument and three minutes for rebuttal, and the permit holder shall be allowed seven minutes to present oral argument and three minutes for rebuttal. The Board may request a departmental response at its own discretion.

Other persons desiring to speak before the Board on an appeal may speak once for up to three minutes.

SPECIAL NOTES

Mailed notices of public hearings on appeals are sent to all parties at least five days prior to the date of hearing. In the event that a matter is continued to a specific date by the presiding officer and announced to the parties in the hearing room, no additional mailed notice will be sent. Please call the Board office at 575-6880 for scheduling or other information during regular business hours, or visit our website at www.ci.sf.ca.us/bdappeal/index.html.

Briefs are limited to twelve pages, excluding exhibits, which should be tabbed for easy reference.

The complete Rules of the Board are available for review at the Board office.

Material submitted by the public for Board review prior to a scheduled hearing before the Board, should be addressed to Arnold Y.K. Chin, President, and be received at the Board office, 1660 Mission Street, Room 3036, no later than 4:00 p.m. the Thursday (six days) prior to the scheduled public hearing. Persons unable to attend the scheduled public hearing may submit written comments regarding a calendared item to the Board office. Comments received before noon on the day of the hearing will be made a part of the official record and will be brought to the attention of the Board at the public hearing. For complete distribution to all Commissioners of the Board, necessary staff and case files, submit an original and ten copies.

Pursuant to Government Code Section 65009, if you challenge, in court, the approval of a variance or development permit, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Board of Appeals at, or prior to, the public hearing.

Calendared items are sometimes withdrawn or rescheduled to a later date prior to hearing, or are taken out of order to accommodate special needs. The Board urges all parties to be present in the hearing room from 5:00 p.m. so that everyone has an opportunity to participate in the relevant public hearing when it is called.

PROHIBITION OF SOUND-PRODUCING ELECTRONIC DEVICES

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible

ACCESSIBILITY INFORMATION

American sign language interpreters and/or sound enhancement system will be available upon request by contacting Catherine Johnson at 575-6882 at least 72 hours prior to the hearing. Individuals with severe allergies, environm[illegible]a illness, multiple chemical sensitivity or related disabilities should call the accessibility hotline at 554-8925 to di[illegible]s meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals. The closest accessible BART station is the Civic Center station located at the intersection of Market, Hyde and Grove Streets. Accessible curbside parking has been designated at points along McAllister Street. Accessible MUNI lines serving City Hall are the 42 Downtown Loop, 9 San Bruno and 7 Haight/Noriega and the F line. Accessible MUNI Metro lines are the J, K, L, M, and N. For more information regarding MUNI accessible services, call (415) 923-6142.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, council and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force: Donna Hall, Sunshine Ordinance Task Force, City Hall, Room 409, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102-4683, Phone (415) 554-7724, fax (415) 554-7854, and e-mail Donna_Hall@ci.sf.ca.us. Copies of the Sunshine Ordinance can be obtained from the Clerk of the Sunshine Task Force, the San Francisco Public Library, and on the City's website at www.ci.sf.ca.us/bdsupvrs/sunshine.

LOBBYING ACTIVITY

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Campaign and Governmental Conduct Code § 2.100] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415) 581-2300; fax (415) 2317; web site www.sfgov.org/ethics.

COMMUNICATIONS

Note: Each item on this agenda may include the following documents:

1. Appellant's statement and rebuttal brief.
2. Permit holder's response and rebuttal brief.
3. Department decision, permit, determination or resolution.
4. Public correspondence.

These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter.

CITY AND COUNTY OF SAN FRANCISCO
Board of Appeals
Robert H. Feldman, Executive Secretary
1660 Mission Street, Room 3036
San Francisco, California 94103
(415) 575-6880

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES - WEDNESDAY, JANUARY 9, 2002

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

PRESENT: President Arnold Chin, Vice President Sabrina Saunders, Commissioner Carole Cullum, Commissioner Allam El Qadah, and Commissioner John McInerney.

Judith Boyajian, Deputy City Attorney, Office of the City Attorney (DCA, OCA); Larry Badiner, Zoning Administrator, Planning Dept.; Laurence Kornfield, Chief Building Inspector, Department of Building Inspection (CBI, DBI); and Robert Feldman, Executive Secretary for the Board; Celest Jones, Substitute Court Reporter.

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

SPEAKERS: None.

(2) **COMMISSIONERS COMMENTS & QUESTIONS.**

SPEAKERS: President Chin thanked the audience for its patience and explained that the meeting would begin as soon as all the members were present, and wished them all a Happy New Year.

2(A) Sue Hestor, speaking for herself said she opposes any limitation on the time for briefing because of the difficulty of obtaining files from the departments necessary in preparation of briefs. Though counsel may be able to prepare within the proposed periods, the public would have trouble dealing with the proposed schedule and they will not be able to respond properly. The proposed rules are too stringent.

Nan Roth said that the proposed amendments did not allow sufficient time for appellants to retain an attorney who will file brief. She has no suggestion for an alternative schedule except she preferred a briefing schedule tied to the hearing date as currently used.

Steve Atkinson speaking for himself said that he generally agrees with the proposed process because the present schedule discourages settlement of cases. He feels that the appellant will have an unfair advantage being able to file eight pages of briefs while

respondents can only file six. Also he feels the appellant's reply should not be allowed to raise new issues since the respondent can't respond.

Paula DeBella said the proposed schedule does not allow enough time for appellants to adequately prepare their case and that it takes time for appellants to realize they need an attorney, much less find one who is able to take their case. More time is needed before appellant's brief is due to be submitted.

(3) **SPECIAL ITEM(S):**

ITEM A: Consideration and final adoption of amendments to Rules of the Board regarding briefing schedule and addition of procedures for requests for rehearing and jurisdiction.

ACTION: Upon motion by Commissioner McInerney, the Board voted 5-0 TO adopt the changes and review them in about 6 months, and for these changes to have an effective date of Feb. 1, 2002.

(4) **ADDENDUM ITEM(S):**

ITEM A: 1432-1434 Kearny Street. Letter from Steve Atkinson, attorney for permit holders Nan & Nathan Roth, requesting rehearing of Appeal Nos. 00-258/259/260/261, Cooper & Kirkham vs. DBI, PDA & Kuhn vs. DBI, PDA, heard August 22, 2001. Upon motion by Commissioner McInerney, the Board voted 4-1 (President Chin dissented) to REVOKE both permits. Appellants: Josef Cooper, Tracy Kirkham, and Alan Kuhn. Project: To demolish a garage, and construct a three-story two-family dwelling.

ACTION: At the request of the parties, upon motion by Vice President Saunders, the Board voted 5-0 to reschedule the matter to Feb. 6, 2002.

SPEAKERS: None.

ITEM B: 1000 Bowdoin Street. Letter from Janice Guan, appellant, requesting rehearing of Appeal No(s). 01-169, Guan vs. DBI, PDA, heard December 5, 2001. Upon motion by Commissioner McInerney, the Board voted 4-0-1 (Commissioner Cullum absent), to uphold the subject penalty.

ACTION: Upon motion by President Chin, the Board voted 5-0 to grant the request for rehearing.

SPEAKERS: Serena Guan speaking for the requestor, Janice Guan, said that the appellant did not appear at her hearing because of serious illness.

Laurence Kornfield, CBI, DBI, said his department has no objection to the granting of a rehearing in this matter.

ITEM C: 3628 – 22nd Street. Letter from Robin Rudderow, attorney for appellant Don Keely, requesting rehearing of Appeal No(s). 01-172, heard December 12, 2001. Upon motion by President Chin, the Board voted 4-0 to recuse Commissioner McInerney. Afterwards, upon motion by Commissioner Cullum, the Board voted 4-0-1 (Commissioner McInerney recused) to uphold the subject permit on condition that the roof deck include an eight-foot lattice fence with vines along the side of the roof deck that faces the appellant's property. Permit Holder: Peter Birmingham. Project: install roof deck within envelope of building.

ACTION: Upon motion by Commissioner Cullum, the Board voted 5-0 to recuse Commissioner McInerney. Afterwards, upon motion by Commissioner Cullum, the Board voted 4-0-1 (Commissioner McInerney recused) to deny the request for rehearing.

Robin Rutterow, attorney for the appellant asked the Board to grant a rehearing because certain issues were not addressed at the hearing. Larry Badiner, ZA, said he felt all the relevant issues had been addressed at the original hearing and no new evidence was being offered that could justify a rehearing and a D.R. request had been filed on October 31, 2000 and plans were not changed. Joel Yodowitz, attorney for the permit holder said that in his view no new evidence was being offered that would justify a rehearing and the written submittals for the hearing had discussed the issues now raised. A rehearing would be a waste of time.

SPEAKERS: None.

ITEM D: Letter from Retts Scauzillo, Requestor, asking that the Board take jurisdiction over Building Permit Application No(s). 2001/11/16/3409. Permit Holder: Cheryl Sena. Project: remove stove and sink, and remove ground floor kitchen.

Date permit issued:	November 16, 2001
Last day to appeal:	December 1, 2001
Jurisdiction request received:	December 24, 2001

ACTION: Upon motion by Vice President Saunders, the Board voted 5-0 to recuse Commissioner Cullum. Afterwards, upon motion by Commissioner McInerney, the Board voted 4-0-1 (Commissioner Cullum recused) to continue the matter to Feb. 27, 2002.

Retts Scauzillo requested the Board to take jurisdiction over a building project and allow her to appeal so she can keep her unit. She has sued the landlord who hasn't responded to her request. She is a school bus driver who has lived in the apartment for many years and wants to stay. Elizabeth Erhardt, attorney for the permit holder said there is no basis for jurisdiction in this case. She said her client had given notice of the permit issuance though not required to and had been forthright. Cheryl Sena, permit holder, said that she had no intention to be evasive and gave a history of the requestor's tenancy in the unit.

SPEAKERS: None.

(5) **CONSENT ITEMS:** Without consent from the Dept. of Building Inspection to reduce the penalties, the Board took testimony and decided the appeals as follows:

(5A) **APPEAL NO. 01-234**

VALENTIN GUAJARDO, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[1151 Naples Street.
[Appeal for refund of penalty imposed [on December 14, 2001, for work done [without a permit.
[APPLICATION NO. 2001/12/14/5325.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner McInerney, the Board voted 5-0 to reduce the subject penalty to two (2) times the regular fee.

SPEAKERS: Valentin Guajardo, appellant, said the violation has been corrected and the illegal unit removed from the basement although the work had been done long before he bought the property. Laurence Kornfield CBI, BBI, said there was no evidence presented to him showing that the work had been done by a previous owner and before 1960, so he couldn't reduce the penalty himself.

(5B) **APPEAL NO. 01-240**

RAYMOND GUARAGLIA, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent

[700 Vermont Street.
[Appeal for refund of penalty imposed [on December 19, 2001, for work done [without a permit.
[APPLICATION NO. 2001/06/20/1935.
[FOR HEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted 5-0 to reduce the subject penalty to two (2) times the regular fee.

SPEAKERS: Edward Mullins for the appellant submitted the contract and a statement from the title company explaining the situation in 1977 when the property was purchased by his client, evidence that the work was done by a previous owner.

ITEMS (6A) & (6B) WERE HEARD TOGETHER:

(6A) **APPEAL NO. 01-081**

WEST CORK HOTEL LLC, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[[144 Eddy Street.
[Zoning Administrator Determination [dated April 24, 2001, addressed to [Randy Shaw of the Tenderloin Housing [Clinic, that the previous tourist hotel [use, the Empress Hotel, located in [the [North of Market Special Use District [No.1 was a non-conforming use under [Planning Code Section 180, that the [tourist hotel use has been discontinued [for a continuous period of at least three [years and tourist hotel use may not [be [re-established except in compliance [with present requirements of City [Codes as applicable.
[PUBLIC HEARING HELD & CLOSED [OCTOBER 24, 2001.
[FOR FURTHER CONSIDERATION [TODAY.

(6B) **APPEAL NO. 01-082**

EMPRESS LLC, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[144 Eddy Street.
[Zoning Administrator Determination [dated April 24, 2001, addressed to [Randy Shaw of the Tenderloin Housing [Clinic, that the previous tourist hotel [use, the Empress Hotel, located in [the [North of Market Special Use District [No.1 was a non-conforming use under [Planning Code Section 180, that the [tourist hotel use has been discontinued [for a continuous period of at least three [years and tourist hotel use may not [be [re-established except in compliance [with present requirements of City [Codes as applicable.
[PUBLIC HEARING HELD & CLOSED [OCTOBER 24, 2001.
[FOR FURTHER CONSIDERATION [TODAY.

ACTION: Upon motion by Commissioner Cullum, the Board voted 3-2 (President Chin & Commissioner El Qadah dissented) to uphold the subject determination.

SPEAKERS: Andrew Zacks, attorney for the appellant, said he spoke to Alan Low and the Tenderloin Housing Clinic and no intent was shown in purchasing the property. Randy

Shaw, the requestor of the subject determination said there is nothing pending in this matter.

(7) **APPEAL NO. 01-141**

ESMERALDO NOCON, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[951-957 Mission Street.
[Appealing a Notice of Violation dated [August 8, 2001, alleging that the subject [property at 951-957 Mission Street is being [used for business or professional offices [that do not provide on-site services to the [general public with out benefit of [Conditional Use (CU) authorization from [the Planning Commission, in violation of [Planning Code Section 219(d).
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Cullum, the Board voted 4-0-1 (Commissioner McInerney recused) to reschedule the matter to Jan. 30, 2002.

SPEAKERS:

(8) **APPEAL NO. 00-161**

ROBERT T. HOLLAND,
dba "EDWARD II BED & BREAKFAST",
Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[3155 Scott Street.
[Order to Cease Violation of the [Planning Code dated September 11, [2000 for billboard exceeding 24 feet in [height constructed without [proper [permits on the west-facing wall of the [building.
[PUBLIC HEARING HELD & CLOSED [DEC. 6, 2000.
[FOR FURTHER CONSIDERATION [TODAY.

ACTION: This matter was withdrawn by the appellant.

(9) **APPEAL NO. V01-135**

GRAHAM SCHNEIDER, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[740 Church Street.
[Appealing denial on August 9, 2001, of [a Lot Size Variance (subdivide existing [6,355sf lot and create a new lot that is [1,752.75sf with the remaining corner lot [being 4,602.25sf, with the existing [building remaining on the corner lot).
[PUBLIC HEARING HELD & CLOSED [OCT. 10, [2001.
[FOR FURTHER CONSIDERATION [TODAY.

ACTION: Upon motion by Vice President Saunders, the Board voted 5-0 to reschedule the matter to Jan. 30, 2002.

SPEAKERS: None.

(10) **APPEAL NO. 01-194**

CLYDE & LISA IKEDA, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING COMMISSION DISAPPROVAL

§ 14 Principal(s): RICHARD GARCIA, ROBERT & DOROTHY CHAN

[2252 Beach Street.
[Appealing denial on October 16, [2001, of Site Permit to Alter a [Building (third floor addition, interior [remodel, one-story addition with [terrace above located at rear)
[APPLICATION NO. [2000/10/20/3640S.
[PUBLIC HEARING HELD & CLOSED [DECEMBER 12, 2001.
[FOR FURTHER CONSIDERATION [TODAY.

ACTION: Upon motion by Commissioner Cullum, the Board voted 4-0 to recuse Commissioner McInerney. Afterwards, Upon motion by Commissioner Cullum, the Board voted 3-1-1 (President Chin dissented, Commissioner McInerney recused) to overrule the denial by the Planning Commission and grant the subject permit per the revised plans (dated Jan. 9, 2002) submitted by the appellants' attorney. Four votes being necessary to overturn any departmental action, the motion failed, and the denial by the Planning Commission was upheld.

SPEAKERS: Gerald Green, Director of Planning spoke for the Planning Commission and explained the revisions the Commission had wanted and the appellant wouldn't agree to. He described his efforts to assist the parties in arriving at an acceptable plan. He said there was no consensus yet. John Sanger, attorney for the appellants, requested Commissioner McInenry to sit on this matter and not be recused, since there is no legal justification for such recusal and it would be contrary to due process. He said that his client had offered a revised plan incorporating the suggestions made by the Board, but the neighbors wouldn't agree to it, though it represents a real compromise by his client.

(11) **APPEAL NO. V01-179**

STEPHEN GOLDSTINE, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[1331 Green Street.
[Appealing denial on October 4, 2001, [of Rear Yard Variance Modification [(construction of a new single-family [home at the front of the [subject lot).
[VARIANCE CASE NO. 2001.0592V.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner McInerney, the Board voted 4-1 (President Chin dissented) to overrule the denial and grant the subject variance with a finding that the hardship requirement is met in this case.

SPEAKERS: Larry Badiner, ZA, explained that the earlier variances were granted to enable the appellant to expand the house. He said the subject variance application was denied because of the lack of any hardship and because it would be inconsistent with the earlier variances. David Cincotta, attorney for the appellant, explained that his client was only asking for permission to build a garage because of the parking problem in the area.

PUBLIC COMMENT FOR ZA: Kathryn Bednarz of 1355 Green Street said she opposed the project because it will result in a wide concrete driveway and she is worried about the structural integrity of the building, since it will take out part of the hill. Elizabeth Wright said the appellant knew about the easement when he bought it. This is a self-induced hardship; and he shouldn't be rewarded how with a variance. He will cut down trees and landscaping put in by former owner Imogene Cunningham. Tommy Tami Twarog for the ZA said that in 1980 she bought a small cottage and if the appellant isn't satisfied with his cottage he shouldn't have bought it in the first place, and he gave false information to get earlier variance. Hilton Wong for ZA said he represents two tenants who intend to move if there is a major construction project next door.

PUBLIC COMMENT FOR APPELLANT: Randall Partridge described the gardens in the 1940s with photos and said the proposal will be an improvement that Imogene Cunningham would approve of because it will preserve the garden. Trish Bransten said the appellants are well known in the art world and their project will be an improvement to an area that is scary at night. The appellant shouldn't be penalized now since he has done so much for the city. Barbara Solomon of the Art Commission said project should be allowed since it will preserve the garden and will remove the overgrown ivy which was not part of the original design. Garden looks better now that when Imogene lived there. Sue DeMartini who lives next door said project will benefit the neighborhood by adding off-street parking. People now sleep in the yard and garage will improve security of the area. Stephen Rogers of 2519 Polk said the project will increase property value in the neighborhood and will increase parking spaces. Chris Bigelow said the project meets the requirements for a variance as well as Code provisions and General Plan objectives appropriate for the area. Stephen Goldstine, appellant said his house is a shack built after the 1906 earthquake which has much dry rot and dampness in the walls and Mr. Passmore thought it was uninhabitable at the time of the earlier variance.

(12) **APPEAL NO. 01-180**

ANDREAS W. KATZ &
JUDITH POWELL KATZ, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[255 Chestnut Street.
[Protesting issuance on September 28,
[2001, to Stuart Fuss, Permit to Alter a
[Building (replace [and repair windows
[and roof, lower roof line, cut west side
[of cottage wall and footing to correct
[property line encroachment; remodel
[bathroom, electrical and plumbing).
[APPLICATION NO. 2001/09/28/9492.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner McInerney, the Board voted 5-0 to uphold the subject permit.

SPEAKERS: Steve Atkinson, attorney for the appellant, said that the permit holders had never consulted with the appellants about the project, and the plans are inaccurate. It is only one building and not two buildings, and the plans don't show the excavation and reconstruction. It is not just a remodel. He feels the can could be settled. Carlos Alvarez, attorney for the permit holder said it has historically been two structures and there is no evidence to support the two structure position. He thinks the matter can't be settled or resolved. The bathhouse is a separate structure. They have reached an impasse and the permit was issued appropriately with the carport showing on the accurate plans. Larry Badiner, ZA, said the permit is to replace and repair the roof though it appears they demolished the building. They can't subdivide with the approval of a rear yard variance. Laurence Kornfield, CBI, DBI, said that there are two walls remaining so it is not a complete demolition. The building straddles the property line and there are commonly separate foundations with a fire wall to separate buildings. This issue is a minor one to DBI. This is not a residential building, but rather a subsidiary building.

NO PUBLIC COMMENT FOR EITHER SIDE.

(13) **APPEAL NO. 01-181**

BRIAN O'FLYNN,
PETER FAZIO & SHARI FAZIO, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[1600 Mission Street.
[Appealing a Revocation Request dated
[September 27, 2001 for Building Permit
[Application(s) 9926146,
[2001/01/00/28974 and
[2001/06/60/81174.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner McInerney, the Board voted 5-0 to uphold the subject revocation request.

SPEAKERS: Larry Badiner, ZA, said the subject sign is the only billboard in the City that rotates and the Planning Code doesn't permit it. The sign is Code complying if it is still.

Lawrence Sussman, attorney for the appellants, said that in his view the Code does allow rotating signs under Section 607(d)

PUBLIC COMMENT FOR ZONING ADMINISTRATOR: Anthony Leones, attorney for Viscom Outdoor, said the permit was for a general advertising sign at first but actually for a business sign for National Car Rental on the same lot. He described all three permits with the second one for an increase in size at the third to permit the height of the sign with no mention of rotation on any of the three. This is the only general advertising sign that rotates in the City. He urged the Board to uphold the ZA.

PUBLIC COMMENT FOR APPELLANTS: Phillip Lessa of the Mission Merchants Association said this high crime area needs the sign and it will revitalize it. Kieron McCartney said there is no reason sign shouldn't rotate since it lights a corner that has had much crime and drug dealing in the past. Now corner is lit and safe, and people don't hang out on the corner now. Greg Lessa said he works at the cookie factory across Otis Street from the sign and he supports the appellants. Slimane Djili has a business down the street and sign is a benefit in the high crime area. He walks by at midnight and is no longer fearful near the sign because it lights the corner. Brian O'Flynn, appellant, said that in his view the Code doesn't prohibit rotation of a sign. He said Mr. Leones' client is in litigation with the appellants. Appellant's complete set of drawings to Gil Chaves of the Planning Department and the approved plans show that it was to be a rotating sign, and Frank Chiu, Director of the Department of Building Inspection said the plans show that it is intended to rotate. Mr. Chaves said that he disagrees with the Zoning Administrator.

(14) **APPEAL NO. 01-183**

ROBERT PASKER
& LAURIE PITMAN, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[2266 Vallejo Street.
[Protesting issuance on October 2, [2001, to Bill Davenport, Permit to Alter [a Building (interior remodel, including [new garage and addition to the rear [and side of building, reduce from five [units to four units).
[APPLICATION NO. 9913124S.
[FOR HEARING TODAY.

ACTION: This matter was withdrawn by the appellant(s).

MEETING MINUTES, BOARD OF APPEALS, JANUARY 9, 2002

ITEMS (15A) & (15B) SHALL BE HEARD TOGETHER:

(15A) **APPEAL NO. 01-161**

KWOK WAI YAN, Appellant
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[415 Naples Street.
[Protesting issuance on September 6,
[2001, to Amy Lam, Permit to Erect a
[Building (3-story single family dwelling,
[34'2" in height, with 1,239sf of ground
[floor area).
[APPLICATION NO. 2000/09/08/0019.
[FOR HEARING TODAY.

(15B) **APPEAL NO. 01-162**

DONNA SHAREE, Appellant
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[415 Naples Street.
[Protesting issuance on September 6,
[2001, to Amy Lam, Permit to Erect a
[Building (3-story single family dwelling,
[34'2" in height, with 1,239sf of ground
[floor area).
[APPLICATION NO. 2000/09/08/0019.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Cullum, the Board voted 4-0 to recuse President Chin. Afterwards, upon motion by Commissioner McInerney, the Board voted 3-1-1 (Commissioner Cullum dissented, President Chin recused) to uphold the subject permit.

SPEAKERS: (15A) Rose Lin, speaking for Kwok Wai Yan, appellant, said that the height of the project will block light and air to appellant's windows and the five-bedroom house proposed won't blend with the neighborhood since the nearby houses are all one and two-story and project will be three stories. (15B) Donna Sharee, appellant speaking for herself and neighbors, said the proposed house will tower over its neighbors and it is not in harmony with the block. Her home will be devalued, and she is afraid the proposed house will be converted into illegal multi-family use. Heston Chau, architect for the project sponsor, said that his letter says it all, and that the design was done in consultation with Planning, with the height in compliance with the Codes.

PUBLIC COMMENT FOR APPELLANTS: Lilly Rodriguez said the three-story project on Brazil was not appealed in 1998 and it has been converted into two units. But she is not against this project, but it will be way more than a one-family house.

NO PUBLIC COMMENT FOR PERMIT HOLDER:

(16) **APPEAL NO. 01-158**

TRIBECCA PROPERTIES, LLC, Appellant
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING COMMISSION DISAPPROVAL

§ 14 Principal(s): MARK & MARY LIPIAN

[290 Union Street.
[Appealing denial on August 31, 2001,
[of Permit [to Alter a Building (exterior
[modifications and addition of a fourth
[story, a two-car garage, a [rear
[extension, and changes to exterior
[finishes on an existing one-family
[house).
[APPLICATION NO. 2000/12/05/7228.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Cullum, the Board voted 4-0 to recuse President Chin. Afterwards, upon motion by Commissioner McInerney, the Board voted 4-0-1 (President Chin recused) to uphold the denial of the subject permit by the Planning Commission.

SPEAKERS: Larry Badiner, ZA, said a Certificate of Appropriateness was issued by the Landmark Board and Planning Commission and the final construction has a roofline 25 inches higher than shown on plans; so the Commission has ordered reduction of size of roof deck and several minor changes to legalize the construction. Now owner asks the Board to overrule Commission and allow roof deck to remain as is, since he doesn't want to go with Commission's compromise. Ron van Buskirk, for the appellant, said that the conditions are unreasonable and explained what caused the 25 inch discrepancy and the construction is in general conformity with the conceptual plans for the COA and final plans approved by the City several times. He said 32 neighbors supported him and that even with the 25 inches height is still within the height limit. Malcolm Misurall, attorney for the Section 14 Principals said the problem can be fixed with the Commission's compromise conditions and the appeal is an attempt to undermine the process. Alice Barkley said the real issue is the integrity of the planning process.

PUBLIC COMMENTS FOR APPELLANTS: Geoffrey Dohrman said he is on the Board of the Architectural Heritage Foundation and that he feels this appeal is not an attempt to violate the planning process and doesn't violate the process. Jeff Rice read a letter of another supporter and said he hopes common sense prevails. Emily Wong, an architect said she feels the project fits in well with the neighborhood as it is and that there appears to be no intention to add height to the building and the roof deck is no problem either. Dan Feeney said he thinks this is a beautiful project. Michael Byrne said he feels it is punitive to remove the roof deck since it was approved with the deck and it is a major consideration in the determination of the value of the house and the height is due to improvement of the seismic engineering of the building. There was no deceit involved. The garage door also added two inches to the height of the building unexpectedly. Rick Frissbe of Noe Valley said they had retained the architect for their project in Noe Valley and were delighted with the beautiful renovation he did there. Tony Sagaral read a statement from a nearby owner who wrote that the project fits well into the neighborhood and the building is not visible from

Union Street. Bill Riley said the project is sensitive to the historical area and the issues and it was wrong to use the Certificate of Appropriateness as a club. The two adjacent buildings are the ugliest in the City. Dennis Downing read a letter from Kevin Kelly in support of the project. Orlando Wilson read a letter Wilson which said that seismic engineering should be encouraged and that the building has been restored beautifully and he felt this is a case of vested right since the City didn't catch the change in plans and approved them.

PUBLIC COMMENT FOR PLANNING COMMISSION: Jerry Crowley said her group tried to reach a compromise. It is weaker than they wanted but still all right. The owner has made a mockery of the process. Peter Overmeyer said he got a COA for an alteration of his own house and it will be a bad precedent if appeal succeeds. Michelle Bentley said the Appellant was charming to the neighbors and one of the signers of the petition lives in the East. Joe Lobrell, a former president of the Telegraph Hill Dwellers (THD), said the issue is whether matter should be at Board or not since a COA is appealable only to the Supervisors under Section 1006. Leah Shick referred to the FAH letter in packet. She said Alice Carey is on the Board of FAH and that the excess height is a breach of the contract with the neighbors and violation of Commission action. Lewis Shepard said they were all outraged by the owner's response to the Commission's fair deal. Rafael Imperial said owner did a beautiful job and that it is difficult to restore a Victorian. Maya Armour said the 1998 agreement with the neighbors was breached and the rear balcony too wasn't on the original plans. Nan Gordon Roth said she is the author if the Telegraph Hill Historic District and the project enlarged a house and challenged the small home character of the area. Granting the appeal will set a bad precedent. Alice Barkley said the issue is process and its integrity.

There being no further business, President Chin adjourned the meeting at 11:02 p.m.

Arnold Y.K. Chin, President

Robert H. Feldman, Executive Secretary

Transcripts of these hearings can be obtained from Easteller Bruihl, the Official Court Reporter, (415) 348-0050.

Board of Appeals

January 16, 2002

BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

REGULAR MEETING - WEDNESDAY, JANUARY 16, 2002

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

(1)**PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

(2)**COMMISSIONERS COMMENTS & QUESTIONS:**

(3)**ANNUAL ELECTION OF BOARD OFFICERS.**

(4)**ADDENDUM ITEMS:**

ITEM A: 1030-1032 Balboa Street. Letter from Victoria Peterson, requesting that the Board take jurisdiction over Building Permit Application No. 2001/10/09/0242 (demolish and permanently remove illegal unit and convert to storage). Permit Holder: Allen Fong. PUBLIC HEARING HELD NOVEMBER 7, 2001. FOR FURTHER CONSIDERATION TODAY.

Date Permit Issued: October 9, 2001

Last Day to Appeal: October 24, 2001

Date Jurisdiction Request Received: October 26, 2001

ITEM B: Adoption of a Notice of Special Restrictions (NSR) for the property at 2836 Washington Street, Appeal 01-138, 2836 Washington Street LLC vs. DBI, PCD, heard December 5, 2001. Upon motion by President Chin, the Board voted 4-0-1 (Commissioner Cullum absent) to overrule the denial by the Planning Commission, and grant the subject permit on condition that the doors to the rear decks be removed and replaced with windows, and with an NSR to be recorded prohibiting

the use of the two roof areas as decks, with said NSR to be adopted on December 12, 2001.

(5) **APPEAL NO. 01-197**

EMILY JOY BENKERT, Appellant(s)

vs.

DEPT. OF BUILDING INSPECTION,

Respondent

PLANNING DEPT. APPROVAL

[56 Sheridan Street.

[Protesting issuance on October 16, 2001, to [Richard Hart, Site Permit to Erect a Building [(five-story, four-unit building, 50 feet in height, [with 2,459sf of ground floor area).

[APPLICATION NO. 2001/05/15/9233S.

[FOR HEARING TODAY.

(6) **APPEAL NO. 01-168**

QUINCY YU, Appellant(s)

vs.

DEPT. OF PUBLIC WORKS, Respondent

[2138 - 16th Avenue.

[Appealing denial on May 19, 2001, of permit [to remove and replace one tree.

[ORDER NO. 172,915.

[JURISDICTION GRANTED SEPT. 12, 2001.

[FOR HEARING TODAY.

(7) **APPEAL NO. 01-182**

RUDY KOPPL, Appellant(s)

vs.

DEPT. OF BUILDING INSPECTION,

Respondent

PLANNING DEPT. DISAPPROVAL

[2398 Pacific Avenue.

[Appealing denial on September 27, 2001, of [Permit to Alter a Building (permit to legalize [41st unit, CFC issued 8613543 issued August [19, 1988 for 40 units).

[APPLICATION NO. 2001/10/24/1637.

[FOR HEARING TODAY.

(8) **APPEAL NO. 01-185**

KIRA MAKAGON & LEON TAYLOR,

Appellant(s)

vs.

ZONING ADMINISTRATOR, Respondent

[2188 Sutter Street.

[Appealing a Notice of Alleged Violation dated [October 4, 2001, that Building Permit [Application No. 2000/11/06/4985 which was [approved without Planning Dept. review did not [represent the work that actually took place, i.e., [a merger of

original unit #1 and unit #3 into a [single unit located on the 2nd and 3rd floors of [the subject property, in violation of Planning [Commission Resolutions 16078 and 16053 [which require a Discretionary Review (DR) [hearing for building permits involving dwelling [unit mergers.

[FOR HEARING TODAY.

(9) **APPEAL NO. 01-188**

JERRY McDONALD, Appellant(s)

vs.

DEPT. OF BUILDING INSPECTION,

Respondent

PLANNING DEPT. APPROVAL

[176 Clipper Street.

[Protesting issuance on October 11, 2001, to [Laurie Bell, Site Permit to Alter a Building

[(3 story rear addition including art studio on [first floor; kitchen, family room, bath on second; [master bedroom/bath/closet on third; [mezzanine study over master bedroom; new [deck and stairs to grade; demolish existing rear [portion of house for addition; roof deck over [existing roof).

[APPLICATION NO. 2000/11/21/6290S.

[FOR HEARING TODAY.

(10) **APPEAL NO. 01-189**

PAULA DAVIS DeBELLA

& STAN DeBELLA, Appellant(s)

vs.

DEPT. OF BUILDING INSPECTION,

Respondent

PLANNING DEPT. APPROVAL

[1209 Vicente Street.

[Protesting issuance on October 11, 2001, to [Amasia Television (then new owner Dennis [Liu), Permit to Demolish a Building (one-story [retail building, 15 feet in height with 2500sf of [ground floor area).

[APPLICATION NO. 2001/03/31/5734.

[FOR HEARING TODAY.

(11) **APPEAL NO. 01-192**

MARK A. POSTH, Appellant(s)

vs.

DEPT. OF BUILDING INSPECTION,

Respondent

[49-51 Carl Street.

[Protesting issuance on October 15, 2001, to [James Judge, Site Permit to Alter a Building [(rear addition; create habitable space from [existing storage space and basement; new [decks).

[APPLICATION NO. 2001/03/01/3248S.

PLANNING DEPT. APPROVAL [FOR HEARING TODAY.

(12) **APPEAL NO. V01-170**

ROSE PARDINI, Appellant(s)

vs.

ZONING ADMINISTRATOR, Respondent

[745 Brazil Avenue.

[Appealing denial of Rear Yard Variance (third [floor addition of an existing legal non-[complying dwelling structure located in the [required rear yard)

[VARIANCE CASE NO. 2001.0615V

[FOR HEARING TODAY.

ITEMS (13A) & (13B) SHALL BE HEARD TOGETHER:

(13A) **APPEAL NO. 01-164**

DEMAS YAN, Appellant(s)

vs.

DEPT. OF BUILDING INSPECTION,

Respondent

[547 - 23rd Avenue.

[Appealing a determination by the Director of [the Dept. of Building Inspection, dated [September 19, 2001, that the work performed [on the subject property at 547 - 23rd Avenue [on May 16, 2001 constituted an unlawful [demolition within the meaning of Section [103.3 of the Building Code, and that the site [permit (horizontal addition) is hereby revoked.

[APPLICATION NO. 9814760S

[FOR HEARING TODAY.

(13B) **APPEAL NO. 01-165**

DEMAS YAN, Appellant(s)

vs.

DEPT. OF BUILDING INSPECTION,

Respondent

[547 - 23rd Avenue.

[Appealing a determination by the Director of [the Dept. of Building Inspection, dated [September 19, 2001, that the work performed [on the subject property at 547 - 23rd Avenue [on May 16, 2001 constituted an unlawful [demolition within the meaning of Section [103.3 of the Building Code, and that the [permit (revisions to BPA 9814760S, garage [addition in front of existing house, shoring of [garage) is hereby revoked.

[APPLICATION NO. 2000/09/06/9833.

[FOR HEARING TODAY.

ADJOURNMENT.

Note: Each item on this agenda may include the following documents:

1. Appellant's statement and rebuttal brief.
2. Permit holder's response and rebuttal brief.
3. Department decision, permit, determination or resolution.
4. Public correspondence.

These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter.

Date posted: January 10, 2001

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1/16/02

BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES - WEDNESDAY, JANUARY 16, 2002

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

PRESENT: President Arnold Chin, Vice President Sabrina Saunders, Commissioners Carole Cullum, Allam El Qadah, and John McInerney.

Judith Boyajian, Deputy City Attorney (DCA); Larry Badiner, Zoning Administrator (ZA); Laurence Kornfield, Chief Building Inspector, Dept. of Building Inspection (CBI, DBI); and Robert Feldman, Executive Secretary for the Board.

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

SPEAKERS: None

(2) **COMMISSIONERS COMMENTS & QUESTIONS:**

SPEAKERS: President Chin thanked Commissioner Saunders for her year as vice president and the other Commissioners for their support throughout the past year. Commissioner El Qadah thanked the officer for their efforts over the past year and the staff for arranging the holiday party.

(3) **ANNUAL ELECTION OF BOARD OFFICERS.**

ACTION: Upon motion by Commissioner El Qadah, the Board voted 5-0 to re-elect Arnold Chir President, and elect John McInerney as Vice President.

SPEAKERS: None

DOCUMENTS DEPT.

FEB 2 8 2002

SAN FRANCISCO

(4) **ADDENDUM ITEMS:**

ITEM A: 1030-1032 Balboa Street. Letter from Victoria Peterson, requesting that the Board take jurisdiction over Building Permit Application No. 2001/10/09/0242 (demolish and permanently remove illegal unit and convert to storage). Permit Holder: Allen Fong. PUBLIC HEARING HELD NOVEMBER 7, 2001. FOR FURTHER CONSIDERATION TODAY.

Date Permit Issued:	October 9, 2001
Last Day to Appeal:	October 24, 2001
Date Jurisdiction Request Received:	October 26, 2001

ACTION: Upon motion by Commissioner Cullum, the Board voted 4-1 (President Chin dissented) to deny jurisdiction.

SPEAKERS: No appearances by parties.

ITEM B: Adoption of a Notice of Special Restrictions (NSR) for the property at 2836 Washington Street, Appeal 01-138, 2836 Washington Street LLC vs. DBI, PCD, heard December 5, 2001. Upon motion by President Chin, the Board voted 4-0-1 (Commissioner Cullum absent) to overrule the denial by the Planning Commission, and grant the subject permit on condition that the doors to the rear decks be removed and replaced with windows, and with an NSR to be recorded prohibiting the use of the two roof areas as decks, with said NSR to be adopted on December 12, 2001.

ACTION: Upon motion by President Chin, the Board voted 4-1 (Commissioner McInerney dissented) to adopt the subject NDR with amendments made by President Chin.

SPEAKERS: Rene Peinado, appellant, said his permit is only about the parapet walls which he says are original and should be permitted to remain, and he opposes the imposition of a Notice of Special Restrictions as proposed, especially since the facts have been resolved now as to the age of the parapet walls. Larry Badiner, ZA, said he thinks the proposed NSR addresses the intentions of the Commission.

(5) **APPEAL NO. 01-197**

EMILY JOY BENKERT, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[56 Sheridan Street.
[Protesting issuance on October 16, 2001, to
[Richard Hart, Site Permit to Erect a Building
[(five-story, four-unit building, 50 feet in height,
[with 2,459sf of ground floor area).
[APPLICATION NO. 2001/05/15/9233S.
[FOR HEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted 4-0 to recuse Commissioner McInerney. Afterwards, upon motion by Commissioner El Qadah, the Board voted 4-0-1 (Commissioner McInerney recused) to uphold the subject permit.

SPEAKERS: Emily Joy Benkert, appellant, said she had had no notice from Planning of this project. She has a decent view now and the project will block light and air and view and she will face a blank wall and she is trying to raise a family. David Silverman, attorney for permit holder said the only issue is loss of sunlight and he has visited her house and that there is much open space with lots of sunlight around the building with only one window affected by the project and many fifty-foot buildings in the area already. Gabriel Ng, architect for the project, said the appellant's building is twenty-five feet away from the proposed building and there will be a 25% of lot depth rear yard at the occupied floor and the SLR zoning encourages new residential construction. Larry Badiner, ZA, said the area has mixed uses, the project is Code complying and it can't be reduced in size because of required ground level parking. Laurence Kornfield, CBI for DBI said the garage will go to the property line with a deck on top of the garage and with a ten-foot wall among the property line.

PUBLIC COMMENT FOR PERMIT HOLDER: Joe O'Donoghue said that even if the proposed building is chopped back it will make no difference to the sunlight issue; since the window is 25 feet back from the property line.

NO PUBLIC COMMENT FOR APPELLANT.

(6) **APPEAL NO. 01-168**

QUINCY YU, Appellant(s)
vs.
DEPT. OF PUBLIC WORKS, Respondent

[2138 – 16th Avenue.
[Appealing denial on May 19, 2001, of permit
[to remove and replace one tree.
[ORDER NO. 172,915.
[JURISDICTION GRANTED SEPT. 12, 2001.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Cullum, the Board voted 4-1 (Commissioner McInerney dissented) to overrule the denial and grant the subject permit on condition that the tree be replaced with an arbutus endo.

SPEAKERS: Paul Sacamano DPW Urban Forester, said the tree is an overgrown New Zealand Christmas Tree that is too close to a utility box but seems to be healthy. The species is appropriate for this neighborhood and takes wind well though it does have aggressive rooting. It has been neglected. Ms. Quincy Yu, appellant, said the City planted the tree and she has maintained it for years. It is in violation as it is unsuitable and in wrong location. She wants to replace it with a more suitable species that is more than three feet from the utility box.

(7) **APPEAL NO. 01-182**

RUDY KOPPL, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. DISAPPROVAL

[2398 Pacific Avenue.
[Appealing denial on September 27, 2001, of [Permit to Alter a Building (permit to legalize [41st unit, CFC issued 8613543 issued August [19, 1988 for 40 units).
[APPLICATION NO. 2001/10/24/1637.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Cullum, the Board voted 4-0 to recuse Commissioner McInerney. Afterwards, upon motion by President Chin, the Board voted 4-0-1 (Commissioner McInerney recused) to overrule the denial and grant the permit to legalize the 41st unit.

SPEAKERS: Larry Badiner, ZA, said the permit was denied because of the density limit which it exceeds, both 40 and 41 units exceed the present limit. Jeremy Paul, consultant to the Appellant, said he was a paleo-anthropologist in Africa and the evidence here is similar in nature to an African case, in that there is much evidence to show this was an original unit installed with the construction of the building in 1927, built for a resident manager, of which there is none today.

(8) **APPEAL NO. 01-185**

KIRA MAKAGON & LEON TAYLOR, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[2188 Sutter Street.
[Appealing a Notice of Alleged Violation dated [October 4, 2001, that Building Permit [Application No. 2000/11/06/4985 which was [approved without Planning Dept. review did not [represent the work that actually took place, i.e., [a merger of original unit #1 and unit #3 into a [single unit located on the 2nd and 3rd floors of [the subject property, in violation of Planning [Commission Resolutions 16078 and 16053 [which require a Discretionary Review (DR) [hearing for building permits involving dwelling [unit mergers.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner El Qadah, the Board voted 5-0 to uphold the subject Notice of Alleged Violation.

SPEAKERS: Larry Badiner, ZA, said his staff had made a site visit and said that there are two units for commercial use and two for residential and he explained the Commission's resolution regarding mergers. Jeremy Paul for the appellants explained the history of the building and its changes of use over the years since it was built as three townhouses in a row, with storefronts in front of each and much work being done to them now.

PUBLIC COMMENT FOR ZONING ADMINISTRATION: Catherine Lennox said she is the attorney for one of the tenants, who has been evicted and she is here on her own time. She said any merger triggers DR by the Planning Commission but the appellant has avoided DR by putting fake

information on his permit application. Barry Cohn, a tenant in the building said it has always been four units and has been changed to two units during the past three months.

PUBLIC COMMENT FOR APPELLANTS: Pat Buskovich said he has no interest in the outcome of the hearing and he explained what a legal description is and the Certificate of Final Completion.

(9) **APPEAL NO. 01-188**

JERRY McDONALD, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[176 Clipper Street.
[Protesting issuance on October 11, 2001, to [Laurie Bell, Site Permit to Alter a Building [(3 story rear addition including art studio on [first floor; kitchen, family room, bath on second; [master bedroom/bath/closet on third; [mezzanine study over master bedroom; new [deck and stairs to grade; demolish existing rear [portion of house for addition; roof deck over [existing roof).
[APPLICATION NO. 2000/11/21/6290S.
[FOR HEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted 5-0 to uphold the subject permit on condition that the overhang be allowed, and on condition that the subject windows be changed to clear glass from obscured glass.

SPEAKERS: Jerry McDonald, appellant, told the Board about his complaint to the Sunshine Task Force because of violation of the ordinance by the Planning Commission and said the permit holder hasn't complied with the DR decision of the Commission. He pointed out several inconsistencies in the plans by Jerome Altman, architect. Laurie Bell, permit holder, explained the many compromises that have been included in the plans to accommodate the neighbors and she couldn't reach an agreement with the appellant. Jerome Altman, architect for the permit holder, explained the setback and said the addition isn't visible from the corner. Larry Badiner, ZA, said he thinks the complaints have no merit and the notices sent out are adequate, and the project meets the Residential Design Guidelines, with well detailed plans.

PUBLIC COMMENT FOR APPELLANT: Dave Monks, President of the Friends of Noe Valley, said he is concerned with the issue of due process, and said there were serious errors and he can't figure out what the project will look like. Vickie Rosen, President of Upper Noe Neighbors, said she thought Planning has made many mistakes in this case and denied Appellant's request to reschedule DR hearing so he could participate. He has little light and privacy.

PUBLIC COMMENT FOR PERMIT HOLDER: Suzanne Stevens said the Bells are friendly and helpful people. She said her house is the shortest and the most affected by the project.

(10) **APPEAL NO. 01-189**

PAULA DAVIS DeBELLA
& STAN DeBELLA, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[1209 Vicente Street.
[Protesting issuance on October 11, 2001, to [Amasia Television (new owner Dennis Liu), Permit to Demolish a Building (one-story [retail building, 15 feet in height with 2500sf of [ground floor area).
[APPLICATION NO. 2001/03/31/5734.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner McInerney, the Board voted 5-0 to reschedule the matter to Feb. 6, 2002.

SPEAKERS: Sue Hestor asked that this item be put over two or three weeks because she hasn't been able to see the Planning files and the Planner handling the case is on vacation. The project now is different than the one approved by the Commission and her clients are lay people who didn't appeal the site permit. Patrice Fambrini speaking for the permit holder said he agrees to a two-week delay but no longer.

(11) **APPEAL NO. 01-192**

MARK A. POSTH, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[49-51 Carl Street.
[Protesting issuance on October 15, 2001, to [James Judge, Site Permit to Alter a Building [(rear addition; create habitable space from [existing storage space and basement; new [decks).
[APPLICATION NO. 2001/03/01/3248S.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Cullum, the Board voted 5-0 to uphold the subject permit on condition that the railing on the top balcony be extended to 5 feet and that the slats be closer together.

SPEAKERS: Mark Posth, appellant, said he represents two families and that some neighbors in support of him are present. They tried to compromise and failed and he is not against the project though he opposes certain aspects of it. He opposes the solarium and two decks in the rear yard behind the house. James Judge said he designed a modest expansion to the rear and it is recessed four feet six inches from the side property line and is designed to be sensitive to both neighbors. The project meets the Code and there was no DR request. Nancy Drew Bell said the addition is to provide a home for her mother.

PUBLIC COMMENT FOR APPELLANTS: Dana Byrne of 55 Carl Street said she lives next door and the project is ridiculous and will be a story higher. Her home is small with a small garden. Alexander Crockett said he hadn't known of DR request until it was too late. He said while project may technically be in compliance it is too high and violates the purpose of the rear yard requirement.

PUBLIC COMMENT FOR PERMIT HOLDER: Rita Reed testified to the good character of the permit holder who causes no noise problem for the neighbors who also support him.

(12) **APPEAL NO. V01-170**

ROSE PARDINI, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[745 Brazil Avenue.
[Appealing denial of Rear Yard Variance (third [floor addition of an existing legal non-[complying dwelling structure located in the [required rear yard)
[VARIANCE CASE NO. 2001.0615V
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner McInerney, the Board voted 4-0 to recuse President Chin. Afterwards, upon motion by Commissioner Cullum, the Board voted 4-0-1 (President Chin recused) to continue the matter to Feb. 20, 2002.

SPEAKERS: Larry Badiner, ZA, explained why he had denied the proposal for a third story in the rear yard, which would not be in character with the neighborhood and the variance is not justified. Jerry Klein for the appellants said that he felt the project is justified for the appellant, a firefighter, and his family. He said that four-story buildings are common in this area.

NO PUBLIC COMMENT FOR EITHER SIDE.

Don Barant, son of the appellant, said that his mother passed away in September and he needs the additional space for his daughter who is moving back home and can't afford to buy a house and another daughter needs housing also.

ITEMS (13A) & (13B) WERE HEARD TOGETHER:

(13A) **APPEAL NO. 01-164**

DEMAS YAN, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent

[547 – 23rd Avenue.
[Appealing a determination by the Director of [the Dept. of Building Inspection, dated [September 19, 2001, that the work performed [on the subject property at 547 – 23rd Avenue [on May 16, 2001 constituted an unlawful [demolition within the meaning of Section [103.3 of the Building Code, and that the site [permit (horizontal addition) is hereby revoked.
[APPLICATION NO. 9814760S
[FOR HEARING TODAY.

(13B) **APPEAL NO. 01-165**

DEMAS YAN, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,

[547 – 23rd Avenue.
[Appealing a determination by the Director of [the Dept. of Building Inspection, dated

Respondent [September 19, 2001, that the work performed [on the subject property at 547 – 23rd Avenue [on May 16, 2001 constituted an unlawful [demolition within the meaning of Section [103.3 of the Building Code, and that the [permit (revisions to BPA 9814760S, garage [addition in front of existing house, shoring of [garage) is hereby revoked.
[APPLICATION NO. 2000/09/06/9833.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Cullum, the Board voted 5-0 to overrule both determinations with a finding that the subject demolitions were justified because of imminent danger.

SPEAKERS: Laurence Kornfield explained the hearing officer's decision that this was an unlawful demolition, which resulted in the removal of the building's top two floors. He explained the difficulty the City Departments are having in amending the provision on unlawful demolition. Here the scope of the permit was exceeded. Jermey Paul for the appellant said an inspector had cited the building as unsafe and then the inspectors were changed. He said there has been no change in the exterior of the building.

NO PUBLIC COMMENT FOR DEPARMENT.

PUBLIC COMMENT FOR THE APPELLANT: Winky Wong said he saw the building and it was terrible and scary and it needs to be torn down.

There being no further business, President Chin adjourned the meeting at 10:31 p.m.

Arnold Y. K. Chin, President

Robert H. Feldman, Executive Secretary

Government Information Center
S.F. Public Library
Main Branch, 5th Floor
Attn: Terry Gwiazdowsky

BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

REGULAR MEETING - WEDNESDAY, JANUARY 30, 2002

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

1/30/02

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

DOCUMENTS DEPT.

JAN 25 2002

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(2) **COMMISSIONERS COMMENTS & QUESTIONS.**

01-25-02A11:05 RCVD

(3) **ADDENDUM ITEMS:**

ITEM A: 3861-3863 – 25th Street. Letter from Gloria Rivera-Lawson, Requestor, asking that the Board take jurisdiction over Building Permit Application No. 2001/10/01/9631. Permit Holder: Joan Intrator. Project: deck repairs, replace deck boards, add cross bracing.

Date permit issued:	October 1, 2001
Last Day to Appeal:	October 16, 2001
Date Jurisdiction Request Received:	January 17, 2002

ITEM B: 1551 – 40th Avenue. Letter from Tin Shek Tam, Requestor/Permit Holder, asking that the Board take jurisdiction over Building Permit Application No. 2001/11/16/3388 for the purpose of filing a penalty appeal. Project: reduce height of retaining wall to comply with complaint no. 200122023; remove electrical line to retaining wall, remove plumbing drain for concrete slab per plan.

Date permit issued:	November 16, 2001
Last Day to Appeal:	December 1, 2001
Date Jurisdiction Request Received:	January 18, 2002

(4) **APPEAL NO. 01-141**

ESMERALDO NOCON, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[951-957 Mission Street.
[Appealing a Notice of Violation dated August
[2001, alleging that the subject property is bei
[used for business or professional offices that
[not provide on-site services to the general pub
[with out benefit of Conditional Use (C
[authorization from the Planning Commission,
[violation of Planning Code Section 219(d).
[FOR HEARING TODAY.

(5) **APPEAL NO. V01-135**

GRAHAM SCHNEIDER, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[740 Church Street.
[Appealing denial on August 9, 2001, of a
[Size Variance (subdivide existing 6,355sf
[and create a new lot that is 1,752.75sf with
[remaining corner lot being 4,602.25sf, with
[existing building remaining on the corner lot).
[PUBLIC HEARING HELD & CLOSED OCT.
[2001.
[FOR FURTHER CONSIDERATION TODAY.

(6) **CONSENT ITEMS:** With the consent of the Taxicab Commission and Police Department, the Board will proceed to a vote without testimony to overrule the revocations of the subject permits due to non-payment of annual/semi-annual permit or license fees. Without consent, the Board will take testimony and then decide the appeal.

(6A) **APPEAL NO. 01-193**

THEO DeLIGIORGIS, Appellant(s)
vs.
TAXICAB COMMISSION, Respondent

[Appealing the revocation on October 24, 2001
[of Driver of Public Passenger Vehicle Permit
[PERMIT NO. 052718.
[FOR HEARING TODAY.

(6B) **APPEAL NO. 01-195**

LULSEGED H. MOHAMMED, Appellant(s)
vs.
TAXICAB COMMISSION, Respondent

[Appealing the revocation on October 24, 2001
[of Driver of Public Passenger Vehicle Permit
[PERMIT NO. 50513.
[FOR HEARING TODAY.

(6C) **APPEAL NO. 01-198**

PHET PHET, Appellant(s)
vs.
TAXICAB COMMISSION, Respondent

[Appealing the revocation on October 24, 2001,
[of Driver of Public Passenger Vehicle Permit.
[PERMIT NO. 54022.
[FOR HEARING TODAY.

(6D) **APPEAL NO. 01-207**

MARK MURPHY, Appellant(s)
vs.
TAXICAB COMMISSION, Respondent

[Appealing the revocation on October 24, 2001,
[of Driver of Public Passenger Vehicle Permit.
[PERMIT NO. 54022.
[FOR HEARING TODAY.

(6E) **APPEAL NO. 01-214**

HARRY AU YEUNG, Appellant(s)
vs.
TAXICAB COMMISSION, Respondent

[Appealing the revocation on October 24, 2001,
[of Driver of Public Passenger Vehicle Permit.
[PERMIT NO. 34591.
[FOR HEARING TODAY.

(6F) **APPEAL NO. 01-215**

BRIAN HEALY, Appellant(s)
vs.
TAXICAB COMMISSION, Respondent

[Appealing the revocation on October 24, 2001,
[of Driver of Public Passenger Vehicle Permit.
[PERMIT NO. 049877.
[FOR HEARING TODAY.

(6G) **APPEAL NO. 01-227**

DOMINGOS FOLHA, Appellant(s)
vs.
TAXICAB COMMISSION, Respondent

[Appealing the revocation on October 24, 2001,
[of Driver of Public Passenger Vehicle Permit.
[PERMIT NO. 51864
[JURISDICTION GRANTED NOV. 28, 2001.
[FOR HEARING TODAY.

(6H) **APPEAL NO. 01-230**

RAYMUNDO MEDRANO, JR., Appellant(s)
vs.
POLICE DEPT., Respondent

[Appealing the revocation on October 12, 2001,
[of Tow Car Driver Permit.
[PERMIT NO. 1240.
[JURISDICTION GRANTED NOV. 28, 2001.
[FOR HEARING TODAY.

(7) **APPEAL NO. 01-159**

EDMUND JUNG, Appellant
vs.
TAXICAB COMMISSION, Respondent

[Appealing the revocation on September 4, 20
[of taxicab medallion no. 842.
[RESOLUTION NO. 2001-53.
[FOR HEARING TODAY.

(8) **APPEAL NO. 01-205**

ZEEVA KARDOS, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[2708-2712 Greenwich Street.
[Protesting issuance on October 20, 2001, to
[Jed Smith, Permit to Alter a Building (ins all
[new roof deck on residential building, encl se
[deck at rear of first floor of unit 2710, fill in l ht
[well on east side of unit 2710, modify winc w
[openings and deck railings of building, ins all
[new garage door and front door for unit 271C
[APPLICATION NO. 2001/03/13/4092.
[FOR HEARING TODAY.

ITEMS (9A) THROUGH (9J) SHALL BE HEARD TOGETHER:

(9A) **APPEAL NO. 01-199**

SHELDON M. LEVIN, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[760 El Camino Del Mar.
[Protesting issuance on October 23, 2001 to
[Stephen & Nathalie Wong, Permit to Demc sh
[a Building (one-story single-family dwelling ith
[3,515sf of ground floor area).
[APPLICATION NO. 2000/11/30/6911.
[FOR HEARING TODAY.

(9B) **APPEAL NO. 01-200**

SHELDON M. LEVIN, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[760 El Camino Del Mar.
[Protesting issuance on October 23, 2001 to
[Stephen & Nathalie Wong, Site Permit to E ect
[a Building (two-story single-family dwelling ith
[3,592sf of ground floor area).
[APPLICATION NO. 2000/11/30/6904S.
[FOR HEARING TODAY.

(9C) **APPEAL NO. 01-201**

GARY & ZEEVA KARDOS, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[760 El Camino Del Mar.
[Protesting issuance on October 23, 2001, to [Stephen & Nathalie Wong, Permit to Demolish [a Building (one-story single-family dwelling with [3,515sf of ground floor area).
[APPLICATION NO. 2000/11/30/6911.
[FOR HEARING TODAY.

(9D) **APPEAL NO. 01-202**

GARY & ZEEVA KARDOS, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[760 El Camino Del Mar.
[Protesting issuance on October 23, 2001, to [Stephen & Nathalie Wong, Site Permit to Erect [a Building (two-story single-family dwelling with [3,592sf of ground floor area).
[APPLICATION NO. 2000/11/30/6904S.
[FOR HEARING TODAY.

(9E) **APPEAL NO. 01-203**

MILTON & MARTHA ROSENBERG, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[760 El Camino Del Mar.
[Protesting issuance on October 23, 2001, to [Stephen & Nathalie Wong, Permit to Demolish [a Building (one-story single-family dwelling with [3,515sf of ground floor area).
[APPLICATION NO. 2000/11/30/6911.
[FOR HEARING TODAY.

(9F) **APPEAL NO. 01-204**

MILTON & MARTHA ROSENBERG, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[760 El Camino Del Mar.
[Protesting issuance on October 23, 2001, to [Stephen & Nathalie Wong, Site Permit to Erect [a Building (two-story single-family dwelling with [3,592sf of ground floor area).
[APPLICATION NO. 2000/11/30/6904S.
[FOR HEARING TODAY.

(9G) **APPEAL NO. 01-209**

BARBARA HANCOCK, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[760 El Camino Del Mar.
[Protesting issuance on October 23, 2001,
[Stephen & Nathalie Wong, Permit to Demoli
[a Building (one-story single-family dwelling w
[3,515sf of ground floor area).
[APPLICATION NO. 2000/11/30/6911.
[FOR HEARING TODAY.

(9H) **APPEAL NO. 01-210**

BARBARA HANCOCK, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[760 El Camino Del Mar.
[Protesting issuance on October 23, 2001,
[Stephen & Nathalie Wong, Site Permit to Er
[a Building (two-story single-family dwelling w
[3,592sf of ground floor area).
[APPLICATION NO. 2000/11/30/6904S.
[FOR HEARING TODAY.

(9I) **APPEAL NO. 01-211**

WALTER SHORENSTEIN, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[760 El Camino Del Mar.
[Protesting issuance on October 23, 2001,
[Stephen & Nathalie Wong, Permit to Demo
[a Building (one-story single-family dwelling
[3,515sf of ground floor area).
[APPLICATION NO. 2000/11/30/6911.
[FOR HEARING TODAY.

(9J) **APPEAL NO. 01-212**

WALTER SHORENSTEIN, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[760 El Camino Del Mar.
[Protesting issuance on October 23, 2001
[Stephen & Nathalie Wong, Site Permit to E
[a Building (two-story single-family dwelling
[3,592sf of ground floor area).
[APPLICATION NO. 2000/11/30/6904S.
[FOR HEARING TODAY.

(10) **APPEAL NO. 01-196**

ATON WYDLER, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[1379 – 3RD Avenue.
[Appealing a determination dated October 17, [2001, that use of the subject property as a 4-[unit residential building is not permitted under [the Planning Code, and is not considered to be [a legal non-conforming use under Planning [Code Sections 180 through 185.
[FOR HEARING TODAY.

(11) **APPEAL NO. 00-255**

VERONICA &
GEORGE TEDESCHI, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[2526 Clement Street.
[Notice of Violation dated December 8, 2000, [that the cottage in the rear yard used as a [dwelling is in conflict with the RH-2 use district [limitations allowing a maximum of two dwelling [units on the site.
[MATTER RESCHEDULED FROM DECEMBER [12, 2001, WITH NO FURTHER [RESCHEDULING ALLOWED.
[FOR HEARING TODAY.

ADJOURNMENT.

Note: Each item on this agenda may include the following documents:

1. Appellant's statement and rebuttal brief.
2. Permit holder's response and rebuttal brief.
3. Department decision, permit, determination or resolution.
4. Public correspondence.

These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter.

Date posted: January 24, 2001

MEMBERS OF THE BOARD OF APPEALS

ARNOLD Y.K. CHIN	PRESIDENT
SABRINA N. SAUNDERS	VICE PRESIDENT
CAROLE S. CULLUM	COMMISSIONER
ALLAM M. EL QADAH	COMMISSIONER
JOHN E. MCINERNEY, III	COMMISSIONER

EASTELLER BRUIHL - OFFICIAL COURT REPORTER 348-0050

PROCEDURE AT HEARINGS

The order of presentation of an appeal shall be as follows: In the case of appeal of denials, revocations and suspensions the representatives of the department, board, commission or person from whose order the appeal is taken shall speak first and shall be allowed seven minutes for their presentation and three minutes for rebuttal.

The appellant whose permit has been denied, revoked or suspended shall be allowed seven minutes for oral argument and three minutes for rebuttal.

In the case of protest appeals, the protestor shall speak first and shall be allowed seven minutes to present oral argument and three minutes for rebuttal, and the permit holder shall be allowed seven minutes to present oral argument and three minutes for rebuttal. The Board may request a departmental response at its own discretion.

Other persons desiring to speak before the Board on an appeal may speak once for up to three minutes.

SPECIAL NOTES

Mailed notices of public hearings on appeals are sent to all parties at least five days prior to the date of hearing. In the event that a matter is continued to a specific date by the presiding officer and announced to the parties in the hearing room, no additional mailed notice will be sent. Please call the Board office at 575-6880 for scheduling or other information during regular business hours, or visit our website at www.ci.sf.ca.us/bdappeal/index.html.

Briefs are limited to twelve pages, excluding exhibits, which should be tabbed for easy reference.

The complete Rules of the Board are available for review at the Board office.

Material submitted by the public for Board review prior to a scheduled hearing before the Board, should be addressed to Arnold Y.K. Chin, President, and be received at the Board office, 1660 Mission Street, Room 3036, no later than 4:00 p.m. the Thursday (six days) prior to the scheduled public hearing. Persons unable to attend the scheduled public hearing may submit written comments regarding a calendared item to the Board office. Comments received before noon on the day of the hearing will be made a part of the official record and will be brought to the attention of the Board at the public hearing. For complete distribution to all Commissioners of the Board, necessary staff and case files, submit an original and ten copies.

Pursuant to Government Code Section 65009, if you challenge, in court, the approval of a variance or development permit, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Board of Appeals at, or prior to, the public hearing.

Calendared items are sometimes withdrawn or rescheduled to a later date prior to hearing, or are taken out of order to accommodate special needs. The Board urges all parties to be present in the hearing room from 5:00 p.m. so that everyone has an opportunity to participate in the relevant public hearing when it is called.

PROHIBITION OF SOUND-PRODUCING ELECTRONIC DEVICES

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible

ACCESSIBILITY INFORMATION

American sign language interpreters and/or sound enhancement system will be available upon request by contactir Catherine Johnson at 575-6882 at least 72 hours prior to the hearing. Individuals with severe allergies, environm illness, multiple chemical sensitivity or related disabilities should call the accessibility hotline at 554-8925 to dis meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings a reminded that other attendees may be sensitive to various chemical-based products. Please help the City accommodate these individuals. The closest accessible BART station is the Civic Center station located at th intersection of Market, Hyde and Grove Streets. Accessible curbside parking has been designated at points alor McAllister Street. Accessible MUNI lines serving City Hall are the 42 Downtown Loop, 9 San Bruno and Haight/Noriega and the F line. Accessible MUNI Metro lines are the J, K, L, M, and N. For more information regardi MUNI accessible services, call (415) 923-6142.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, counc and other agencies of the City and County exist to conduct the people's business. This ordinance assures th deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrati Code) or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force: Donna Hall, Sunshi Ordinance Task Force, City Hall, Room 409, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102-4683, Pho (415) 554-7724, fax (415) 554-7854, and e-mail Donna_Hall@ci.sf.ca.us. Copies of the Sunshine Ordinance can obtained from the Clerk of the Sunshine Task Force, the San Francisco Public Library, and on the City's website www.ci.sf.ca.us/bdsupvrs/sunshine.

LOBBYING ACTIVITY

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required the San Francisco Lobbyist Ordinance [SF Campaign and Governmental Conduct Code § 2.100] to register and rep lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco E Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415) 581-2300; fax (415) 2317; web site www.sfgov.org/ethics.

COMMUNICATIONS

Note: Each item on this agenda may include the following documents:

1. Appellant's statement and rebuttal brief.
2. Permit holder's response and rebuttal brief.
3. Department decision, permit, determination or resolution.
4. Public correspondence.

These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter.

CITY AND COUNTY OF SAN FRANCISCO
Board of Appeals
Robert H. Feldman, Executive Secretary
1660 Mission Street, Room 3036
San Francisco, California 94103
(415) 575-6880

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES - WEDNESDAY, JANUARY 30, 2002

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

PRESENT: President Arnold Chin, Vice President John McInerney, Commissioners Carole Cullum, Allam El Qadah, and Sabrina Saunders.

Judith Boyajian, Deputy City Attorney (DCA); Larry Badiner, Zoning Administrator (ZA); Laurence Kornfield, Chief Building Inspector, Dept. of Building Inspection (CBI, DBI); and Robert Feldman, Executive Secretary for the Board.

1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

SPEAKERS: None

2) **COMMISSIONERS COMMENTS & QUESTIONS**: President Chin asked staff to ask Supervisor Peskin to have his staff assist researching their request about recuses of Commissioners.

SPEAKERS: None

3) **ADDENDUM ITEMS:**

ITEM A: 3861-3863 – 25th Street. Letter from Gloria Rivera-Lawson, Requestor, asking that the Board take jurisdiction over Building Permit Application No. 2001/10/01/9631. Permit Holder: Joan Intrator. Project: deck repairs, replace deck boards, add cross bracing.

Date permit issued:	October 1, 2001
Last Day to Appeal:	October 16, 2001
Date Jurisdiction Request Received:	January 17, 2002

ACTION: This matter was withdrawn by the requestor.

ITEM B: 1551 – 40th Avenue. Letter from Tin Shek Tam, Requestor/Permit Holder, asking that the Board take jurisdiction over Building Permit Application No. 2001/11/16/3388 for the purpose of filing a penalty appeal. Project: reduce height of retaining wall to comply with complaint no. 200122023; remove electrical line to retaining wall, remove plumbing drain for concrete slab per plan.

Date permit issued:	November 16, 2001
Last Day to Appeal:	December 1, 2001
Date Jurisdiction Request Received:	January 18, 2002

ACTION: Upon motion by Commissioner Cullum, the Board voted 5-0 to grant jurisdiction.

SPEAKERS: Laurence Kornfield, CBI, DBI, said his department has no objection to the Board allowing a late appeal.

(4) **APPEAL NO. 01-141**

ESMERALDO NOCON, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[951-957 Mission Street.
[Appealing a Notice of Violation dated August 8, [2001, alleging that the subject property is being [used for business or professional offices that do [not provide on-site services to the general public [with out benefit of Conditional Use (CU) [authorization from the Planning Commission, in [violation of Planning Code Section 219(d).
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Saunders, the Board voted 4-0-1 (Commissioner McInerney recused) to reschedule the matter to Feb. 27, 2002.

SPEAKERS: None

(5) **APPEAL NO. V01-135**

GRAHAM SCHNEIDER, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[740 Church Street.
[Appealing denial on August 9, 2001, of a Lot [Size Variance (subdivide existing 6,355sf lot [and create a new lot that is 1,752.75sf with the [remaining corner lot being 4,602.25sf, with the [existing building remaining on the corner lot).
[PUBLIC HEARING HELD & CLOSED OCT. 10, [2001.
[FOR FURTHER CONSIDERATION TODAY.

ACTION: This matter was withdrawn by the appellant.

(6) **CONSENT ITEMS:** With the consent of the Taxicab Commission and Police Department, the Board will proceed to a vote without testimony to overrule the revocations of the subject permits due to non-payment of annual/semi-annual permit or license fees. Without consent, the Board will take testimony and then decide the appeal.

(6A) **APPEAL NO. 01-193**

THEO DeLIGIORGIS, Appellant(s)
vs.
TAXICAB COMMISSION, Respondent

[Appealing the revocation on October 24, 2001, [of Driver of Public Passenger Vehicle Permit.
[PERMIT NO. 052718.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Cullum, the Board voted 5-0 to overrule the revocation and reinstate the subject permit.

SPEAKERS: None

(6B) **APPEAL NO. 01-195**

LULSEGED H. MOHAMMED, Appellant(s)
vs.
TAXICAB COMMISSION, Respondent

[Appealing the revocation on October 24, 2001, [of Driver of Public Passenger Vehicle Permit.
[PERMIT NO. 50513.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Cullum, the Board voted 5-0 to overrule the revocation and reinstate the subject permit.

SPEAKERS: None

(6C) **APPEAL NO. 01-198**

PHET PHET, Appellant(s)
vs.
TAXICAB COMMISSION, Respondent

[Appealing the revocation on October 24, 2001,
[of Driver of Public Passenger Vehicle Permit.
[PERMIT NO. 54022.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Cullum, the Board voted 5-0 to overrule the revocation and reinstate the subject permit.

SPEAKERS: None

(6D) **APPEAL NO. 01-207**

MARK MURPHY, Appellant(s)
vs.
TAXICAB COMMISSION, Respondent

[Appealing the revocation on October 24, 2001,
[of Driver of Public Passenger Vehicle Permit.
[PERMIT NO. 54022.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Cullum, the Board voted 5-0 to overrule the revocation and reinstate the subject permit.

SPEAKERS: None

(6E) **APPEAL NO. 01-214**

HARRY AU YEUNG, Appellant(s)
vs.
TAXICAB COMMISSION, Respondent

[Appealing the revocation on October 24, 2001,
[of Driver of Public Passenger Vehicle Permit.
[PERMIT NO. 34591.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Cullum, the Board voted 5-0 to overrule the revocation and reinstate the subject permit.

SPEAKERS: None

(6F) **APPEAL NO. 01-215**

BRIAN HEALY, Appellant(s)
vs.
TAXICAB COMMISSION, Respondent

[Appealing the revocation on October 24, 2001,
[of Driver of Public Passenger Vehicle Permit.
[PERMIT NO. 049877.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Cullum, the Board voted 5-0 to overrule the revocation and reinstate the subject permit on condition that the appellant pay the fee in question and submit a receipt to the Police Permit Bureau and to the Taxicab Commission's attorney.

SPEAKERS: None

(6G) **APPEAL NO. 01-227**

DOMINGOS FOLHA, Appellant(s)
vs.
TAXICAB COMMISSION, Respondent

[Appealing the revocation on October 24, 2001,
[of Driver of Public Passenger Vehicle Permit.
[PERMIT NO. 51864
[JURISDICTION GRANTED NOV. 28, 2001.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Cullum, the Board voted 5-0 to overrule the revocation and reinstate the subject permit.

SPEAKERS: None

(6H) **APPEAL NO. 01-230**

RAYMUNDO MEDRANO, JR., Appellant(s)
vs.
POLICE DEPT., Respondent

[Appealing the revocation on October 12, 2001,
[of Tow Car Driver Permit.
[PERMIT NO. 1240.
[JURISDICTION GRANTED NOV. 28, 2001.
[FOR HEARING TODAY.

ACTION: This matter was withdrawn by the appellant.

(7) **APPEAL NO. 01-159**

EDMUND JUNG, Appellant
vs.
TAXICAB COMMISSION, Respondent

[Appealing the revocation on September 4, 2001,
[of taxicab medallion no. 842.
[RESOLUTION NO. 2001-53.
[FOR HEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted 4-0-1 (Commissioner Saunders absent) to reschedule the matter to Feb. 27, 2002.

SPEAKERS: John Prentiss, attorney for the Appellant, requested the hearing be rescheduled so that there will be a five-member Board Sitting. Paul Zarefsky, deputy city attorney, representing the Taxi Commission agreed to a continuance to February 27, 2002.

(8) **APPEAL NO. 01-205**

ZEEVA KARDOS, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[2708-2712 Greenwich Street.
[Protesting issuance on October 20, 2001, to [Jed Smith, Permit to Alter a Building (install [new roof deck on residential building, enclose [deck at rear of first floor of unit 2710, fill in light [well on east side of unit 2710, modify window [openings and deck railings of building, install [new garage door and front door for unit 2710)
[APPLICATION NO. 2001/03/13/4092.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner El Qadah, the Board voted 5-0 to uphold the permit with the settlement as agreed to by the parties.

SPEAKERS: None

ITEMS (9A) THROUGH (9J) WERE HEARD TOGETHER:

(9A) **APPEAL NO. 01-199**

SHELDON M. LEVIN, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[760 El Camino Del Mar.
[Protesting issuance on October 23, 2001, to [Stephen & Nathalie Wong, Permit to Demolish [a Building (one-story single-family dwelling with [3,515sf of ground floor area).
[APPLICATION NO. 2000/11/30/6911.
[FOR HEARING TODAY.

(9B) **APPEAL NO. 01-200**

SHELDON M. LEVIN, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[760 El Camino Del Mar.
[Protesting issuance on October 23, 2001, to [Stephen & Nathalie Wong, Site Permit to Erect [a Building (two-story single-family dwelling with [3,592sf of ground floor area).
[APPLICATION NO. 2000/11/30/6904S.
[FOR HEARING TODAY.

(9C) **APPEAL NO. 01-201**

GARY & ZEEVA KARDOS, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[760 El Camino Del Mar.
[Protesting issuance on October 23, 2001, to [Stephen & Nathalie Wong, Permit to Demolish [a Building (one-story single-family dwelling with [3,515sf of ground floor area).
[APPLICATION NO. 2000/11/30/6911.
[FOR HEARING TODAY.

(9D) **APPEAL NO. 01-202**

GARY & ZEEVA KARDOS, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[760 El Camino Del Mar.
[Protesting issuance on October 23, 2001, to [Stephen & Nathalie Wong, Site Permit to Erect [a Building (two-story single-family dwelling with [3,592sf of ground floor area).
[APPLICATION NO. 2000/11/30/6904S.
[FOR HEARING TODAY.

(9E) **APPEAL NO. 01-203**

MILTON & MARTHA ROSENBERG,
Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[760 El Camino Del Mar.
[Protesting issuance on October 23, 2001, to [Stephen & Nathalie Wong, Permit to Demolish [a Building (one-story single-family dwelling with [3,515sf of ground floor area).
[APPLICATION NO. 2000/11/30/6911.
[FOR HEARING TODAY.

(9F) **APPEAL NO. 01-204**

MILTON & MARTHA ROSENBERG,
Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[760 El Camino Del Mar.
[Protesting issuance on October 23, 2001, to [Stephen & Nathalie Wong, Site Permit to Erect [a Building (two-story single-family dwelling with [3,592sf of ground floor area).
[APPLICATION NO. 2000/11/30/6904S.
[FOR HEARING TODAY.

(9G) **APPEAL NO. 01-209**

BARBARA HANCOCK, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[760 El Camino Del Mar.
[Protesting issuance on October 23, 2001, to [Stephen & Nathalie Wong, Permit to Demolish [a Building (one-story single-family dwelling with [3,515sf of ground floor area).
[APPLICATION NO. 2000/11/30/6911.
[FOR HEARING TODAY.

(9H) **APPEAL NO. 01-210**

BARBARA HANCOCK, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[760 El Camino Del Mar.
[Protesting issuance on October 23, 2001, to [Stephen & Nathalie Wong, Site Permit to Erect [a Building (two-story single-family dwelling with [3,592sf of ground floor area).
[APPLICATION NO. 2000/11/30/6904S.
[FOR HEARING TODAY.

(9I) **APPEAL NO. 01-211**

WALTER SHORENSTEIN, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[760 El Camino Del Mar.
[Protesting issuance on October 23, 2001, to [Stephen & Nathalie Wong, Permit to Demolish [a Building (one-story single-family dwelling with [3,515sf of ground floor area).
[APPLICATION NO. 2000/11/30/6911.
[FOR HEARING TODAY.

(9J) **APPEAL NO. 01-212**

WALTER SHORENSTEIN, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[760 El Camino Del Mar.
[Protesting issuance on October 23, 2001, to [Stephen & Nathalie Wong, Site Permit to Erect [a Building (two-story single-family dwelling with [3,592sf of ground floor area).
[APPLICATION NO. 2000/11/30/6904S.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner McInerney, the Board voted 4-1 (Commissioner Cullum dissented) to uphold both permits with findings and conditions as submitted by the permit holders' attorney with amendments made by Vice President McInerney.

SPEAKERS: (For 9A, B, C, D, E, F, G, H,) Igor Winkelstein of PAR spoke for the appellants and said the area of Sea Cliff is a known landslide area and the neighbors fear that the proposed construction will weaken the cliff and put them all in danger of a slide into the sea, and there has been no geotechnical report done yet for the site permit. If permits are approved today there can be no more appeals of the geotechnical review. Neighbors want the kind of review required for construction on Edgehill Way. Martha Rosenberg, appellant, said this project is another Fontana Towers. Dolores Levin, appellant, said she is disabled and has a mobility impairment so she stays in her room and her western light well will be blocked by the proposed house and her quality of life will be diminished. The model doesn't make clear what her problem is and how her window will be

affected. Dr. Sheldon Levin asked that the offending wall be pushed back to the west. Barbara Hancock, appellant, said she seconds Mr. Winkelstein's comments and feels that a study should be done before demolition or construction. Dr. Gary Kardos, appellant, said the project will make a tunnel in front of Dr. Stern's house. The project seems to consider itself on an alley and not on a street. Alice Barkley, attorney for the permit holders said her clients want Frank Rolls to do the engineering and soils report but he is on another job. She said the neighbors should feel safe because the proposed house will be properly engineered and will strengthen the cliff with sound engineering and drainage. There is no public view corridor issue only private view issues; and she described the proposed house and revisions made to accommodate Mr. Shorenstein, one of the appellants. Larry Badiner, ZA, representing the Planning Commission said that demolition can be approved even if there is no unsound building report. Larry Kornfield, CBI, DBI, made two points that this is only a site permit and no work can be done under it, and there will be a complete review and a peer review and the engineer will be Frank Rolls, done under State Guidelines and that a special inspection will be required for the project by an engineer.

PUBLIC COMMENT FOR APPELLANTS: Clay Thompson said the proposed house will be out of scale with the neighbors and will change its character. Laurel Collins said she is a geomorphologist and that there is complex geology on the site, with faults and landslides. Myrna Tam said that project should be lowered so it won't block views of the Golden Gate Bridge. Nelson Kao said it is a shame that views from this area should be protected. Michael Farrah, Jr. from Supervisor Gavin's office said that the Supervisor is concerned about the hillside.

PUBLIC COMMENT FOR PERMIT HOLDERS: Robert Allen former president of Sea Cliff Association, said that proposed house is an excellent example of contempory design and that the permit holders tried nine times to appease the neighbors and can't. Karl Kaussen said it is disingenuous of the neighbors to protest when they have large houses themselves. Shirley Liu said she supports this dream house which will be energy efficient. Rosario Cucalon said the permit holders are very friendly people. Danny Ng described an incident during the last El Nino when they were the only ones to agree to do a community survey. The Wongs are good neighbors. Joe O'Donoghue of the Residential Builders Association said he thought the portion cut out for Walter Shorenstein should be put back into the project. Ollie Lundberg, architect said that the loss of area is 80 square feet from the compromise for the appellant.

SPEAKERS: (For 9I & 9J) Alice Barkley for the permit holders informed the Board of the settlement between her clients and the permit holder, Walter Shorenstein, appellant 9I and 9J in Appeal No. 01-211 and 01-212 regarding the opening to the focal for the trash cans, and the Planning Commission has approved the revised plans.

(10) **APPEAL NO. 01-196**

ATON WYDLER, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[1379 – 3RD Avenue.
[Appealing a determination dated October 17, [2001, that use of the subject property as a 4-[unit residential building is not permitted under [the Planning Code, and is not considered to be [a legal non-conforming use under Planning [Code Sections 180 through 185.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner McInerney, the Board voted 4-0-1 (Commissioner Saunders absent) to overrule the subject determination and to adopt findings as submitted by the appellant's attorney.

SPEAKERS: Larry Badiner, ZA explained the history of the use of the property by the University of California as and by the present owner who wants to legalize it as a four-unit residential building. David Cincotta, attorney for the appellant, said that the history of the use is a non-controversial issue and that once U.C. gave up their non-residential use it remained the same four-unit residential building it had been before U.C. took it, and U.C. is a state agency not subject to local zoning controls, and he detailed the permit history of the building which show its four-unit use as lawful. David Buzby letter on behalf of the City was read out loud into the record by the President. Letter was left with Board when writer had to leave the meeting and couldn't testify.

NO PUBLIC TESTIMONY FOR EITHER SIDE.

(11) **APPEAL NO. 00-255**

VERONICA &
GEORGE TEDESCHI, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[2526 Clement Street.
[Notice of Violation dated December 8, 2000, [that the cottage in the rear yard used as a [dwelling is in conflict with the RH-2 use district [limitations allowing a maximum of two dwelling [units on the site.
[MATTER RESCHEDULED FROM DECEMBER [12, 2001, WITH NO FURTHER [RESCHEDULING ALLOWED.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner McInerney, the Board voted 4-0-1 (Commissioner Saunders absent) to overrule the subject Notice of Violation with a finding that the subject property consists of two legal flats, a commercial downstairs space, and that the cottage in the rear yard constitutes a legal non-conforming use.

SPEAKERS: Larry Badiner, ZA, said the record for this property is unclear but that it appears it was a four-unit building over a store with a cottage and a shed in the rear yard. Veronica Tedeschi, co-appellant, said that she purchased the property 57 years ago and it was then four units over a store with shed and cottage in rear yard. For 40 years they maintained the cottage and made the

shed into a laundry room with no complaints. They removed two of the front units but want to retain the cottage which is an affordable small unit and similar to many in the neighborhood. She reviewed her research on the history of City and Water Department records showing the cottage has existed since it was built after the 1906 earthquake. George Tedeschi, co-appellant said he has counted 28 similar cottages in the neighborhood.

There being no further business, President Chin adjourned the meeting at 8:57 p.m.

Arnold Y. K. Chinn, President

Robert H. Feldman, Executive Secretary

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Attn: Terry Gwiazdowsky

BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

REGULAR MEETING - WEDNESDAY, FEBRUARY 6, 2002

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

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(2) **COMMISSIONERS COMMENTS & QUESTIONS:**

(3) **ADDENDUM ITEMS:**

02-01-02A10:22 RCVD

ITEM A: 1432-1434 Kearny Street. Letter from Steve Atkinson, attorney for permit holders Nan & Nathan Roth, requesting rehearing of Appeal Nos. 00-258/259/260/261, Cooper & Kirkham vs. DBI, PDA & Kuhn vs. DBI, PDA, decided August 22, 2001. Upon motion by Commissioner McInerney, the Board voted 4-1 (President Chin dissented) to revoke both permits. Appellants: Josef Cooper, Tracy Kirkham, and Alan Kuhn. Project: To demolish a garage, and construct a three-story two-family dwelling.

ITEM B: 2252 Beach Street. Letter from John Sanger, attorney for appellants Clyde & Lisa Ikeda, requesting rehearing of Appeal 01-194, Ikeda vs. DBI, PCD, decided January 9, 2002. Upon motion by Commissioner Cullum, the Board voted 3-1-1 (President Chin dissented, Commissioner McInerney recused) to overrule the denial by the Planning Commission and grant the subject permit per the revised plans submitted by the appellants' attorney. Four votes being necessary to overturn any departmental action, the motion failed, and the denial by the Planning Commission was upheld. § 14 Principal(s): Richard Garcia, and Robert & Dorothy Chan. Project: third floor addition, interior remodel, one-story addition with terrace above located at rear.

ITEM C: 255 Chestnut Street. Letter from Andreas & Judith Katz, appellants, requesting rehearing of Appeal No. 01-180, Katz vs. DBI, PDA, heard Jan. 9, 2002. Upon motion by Commissioner McInerney, the Board voted 5-0 to uphold the subject permit. Permit Holder(s): Stuart Fuss. Project: replace and repair windows and roof, lower roof line, cut west side of cottage wall and footing to correct property line encroachment; remodel bathroom, electrical and plumbing.

ITEM D: 1001 California Street #9R. Letter from Walter Wong, agent for Mille Meals Inc Requestor/Permit Holder, asking that the Board take jurisdiction over a Zoning Administra Request for Suspension regarding Building Permit Application No. 2001/10/21/1357 (remov counter top for bar; remove non-load bearing walls; remove plywood or raise floor in seating area no structural work).

Date request issued:	November 2, 2001
Last day to appeal:	November 17, 2001
Date jurisdiction request received:	January 23, 2002

(4) **CONSENT ITEMS:** With the consent of the Department of Building Inspection, the Board w proceed to a vote without testimony to reduce the penalty (investigation fee) to two times th regular fee as provided for in the Building Code. Without consent the Board will take testimony an then decide the appeal.

(4A) **APPEAL NO. 01-229**

BRIAN McDONALD, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[497 Collingwood Street.
[Appealing the imposition of penalty o
[December 7, 2001, for work done without
[permit.
[APPLICATION NO. 2001/08/16/6180.
[FOR HEARING TODAY.

(4B) **APPEAL NO. 01-231**

ANDREW K.C. LOCK, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[1530 – 27TH Avenue.
[Appeal for refund of penalty imposed
[December 11, 2001, for work done without a
[permit.
[APPLICATION NO. 2001/11/29/4188.
[FOR HEARING TODAY.

(4C) **APPEAL NO. 01-244**

CATHIANN MOONEY, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[509 Ashbury Street.
[Appeal for refund of penalty imposed
[December 28, 2001, for work done without a
[permit.
[APPLICATION NO. 2001/12/04/4504.
[FOR HEARING TODAY.

(4D) **APPEAL NO. 02-003**

EMERALD FUND, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent

[3961 Alemany Boulevard.
[Appeal for refund of penalty imposed
[December 19, 2001, for electrical work done
[without a permit.
[APPLICATION NO. E235451.
[FOR HEARING TODAY.

(4E) **APPEAL NO. 02-004**

EMERALD FUND, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent

[3901 Alemany Boulevard.
[Appeal for refund of penalty imposed on [December 19, 2001, for electrical work done [without a permit.
[APPLICATION NO. E235452.
[FOR HEARING TODAY.

(4F) **APPEAL NO. 01-169**

JANICE GUAN, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[1000 Bowdoin Street.
[Appeal for refund of penalty imposed on [September 27, 2001, for work done without a [permit.
[APPLICATION NO. 2001/09/27/9346.
[ORIGINAL HEARING DEC. 5, 2001 (PENALTY [UPHELD DUE TO NON-APPEARANCE BY [APPELLANT).
[REQUEST FOR REHEARING GRANTED TO [APPELLANT JAN. 9, 2002.
[FOR REHEARING TODAY.

(4G) **APPEAL NO. 02-006**

ANTONIO FRANCO, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[515 Grafton Avenue.
[Appealing the imposition of penalty on January [9, 2002, for work done without a permit.
[APPLICATION NO. 2001/04/18/7108.
[FOR HEARING TODAY.

(5) **APPEAL NO. 01-134**

FRANK S. DUARTE, JR., Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent

[1196 Hampshire Street.
[Protesting issuance on August 13, 2001, to [William Sorenson & James Cline, Permit to [Alter A Building (complete work started under Building Permit Application Nos. 9912409 and [2000/08/17/8163, correct estimated cost and [comply with Notice of Violation).
[APPLICATION NO. 2001/08/13/5945.
[ORIGINAL HEARING OCT. 3, 2001 (PERMIT [UPHELD).
[REQUEST FOR REHEARING GRANTED TO [LAURENCE KORNFIELD NOV. 7, 2001.
[FOR REHEARING TODAY.

(6) **APPEAL NO. 01-235**

ARIK SHARABI, Appellant(s)
vs.
POLICE DEPARTMENT, Respondent

[Northeast Corner of Drumm & California.
[Appealing denial on December 3, 2001, of
[Pushcart Peddler Permit.
[FOR HEARING TODAY.

(7) **APPEAL NO. 01-206**

SMITH KETTLEWELL EYE RESEARCH INSTITUTE (SKERI), Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[2389 Washington Street; 2209, 2232, 2238,
[2244 & 2250 Webster Street; 2472 Clay Street;
[and 2318 Fillmore Street.
[Appealing determination dated October 22,
[2001, that Planning Commission policies
[imposing limitations on specific properties as
[part of approval actions are part of the Planning
[Code and thus enforceable by the Zoning
[Administrator, and that the SKERI expansion
[into existing structures constitutes "structural
[expansion" as prohibited in Planning
[Commission Motion No. 5998.
[FOR HEARING TODAY.

(8) **APPEAL NO. 01-213**

MICAELA LEZCANO, Appellant(s)
vs.
DEPT. OF PUBLIC WORKS, Respondent

[3560-3566 - 20th Street.
[Denial on October 25, 2001, of Permit to
[Remove One Tree (without replacement).
[ORDER NO. 173,232
[FOR HEARING TODAY.

(9) **APPEAL NO. 01-217**

LILLIE & JIMMY TAYLOR, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[1339 Shafter Street.
[Protesting issuance on October 30, 2001, [to
[Timothy Peterson, Permit to Alter a Building
[(show rear stairs from garage to rear yard as
[new, show rear garage door to access rear
[stairs as new).
[APPLICATION NO. 2001/10/30/2110.
[FOR HEARING TODAY.

10) **APPEAL NO. 01-218**

JIAN PANG, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[123 Nueva Avenue.
[Protesting issuance on October 31, 2001, to [Asta Ou, Permit to Alter a Building (legalize [family room, study room, and bathroom on [ground floor).
[APPLICATION NO. 2001/10/31/2148.
[FOR HEARING TODAY.

11) **APPEAL NO. 01-237**

AGNES KOZEL dba "SAVOY TIVOLI", Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[1434-1438 Grant Avenue.
[Appealing a determination dated December 6, [2001, that the kitchen of the subject [establishment was operating after the effective [date of the Neighborhood Commercial controls [and was closed subsequently, and that [consequently, the change of the operation of [this establishment to a bar only (without food [service) would have then (and now does) [require a Conditional Use (CU) authorization.
[FOR HEARING TODAY.

12) **APPEAL NO. 01-238**

ERIK VON MULLER & PETER FRY, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[4733 – 18th Street.
[Appealing a Determination dated December 13, [2001 that Building Permit Application No(s). [2000/12/20/8359 be suspended, and that all [work already completed but not conforming to [that shown on the plans for Site Permit [Addendum No(s). 9817703/S-1 be removed by [the project sponsor.
[FOR HEARING TODAY.

13) **APPEAL NO. V01-242**

ROBERTO SAINEZ, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[816 Guerrero Street.
[Appealing the denial on December 18, 2001, of [Front Setback, Rear Yard, Parking & Exposure [Variances (convert single-family house into a [three-unit building which would include [construction of a garage structure in the front [setback area, a vertical addition at the rear of [the building, and a new fire escape at the side [of the building).
[VARIANCE CASE NO. 2001.0115V.
[FOR HEARING TODAY.

(14) **APPEAL NO. 01-189**

PAULA DAVIS DeBELLA
& STAN DeBELLA, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[1209 Vicente Street.
[Protesting issuance on October 11, 2001, to
[Amasia Television (then new owner Dennis
[Liu), Permit to Demolish a Building (one-story
[retail building, 15 feet in height with 2500sf o
[ground floor area).
[APPLICATION NO. 2001/03/31/5734.
[FOR HEARING TODAY.

ADJOURNMENT.

Note: Each item on this agenda may include the following documents:

1. Appellant's statement and rebuttal brief.
2. Permit holder's response and rebuttal brief.
3. Department decision, permit, determination or resolution.
4. Public correspondence.

These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter.

Date posted: January 31, 2001

MEMBERS OF THE BOARD OF APPEALS

ARNOLD Y.K. CHIN	PRESIDENT
JOHN E. MCINERNEY, III	VICE PRESIDENT
CAROLE S. CULLUM	COMMISSIONER
ALLAM M. EL QADAH	COMMISSIONER
SABRINA N. SAUNDERS	COMMISSIONER

EASTELLER BRUIHL - OFFICIAL COURT REPORTER 348-0050

PROCEDURE AT HEARINGS

The order of presentation of an appeal shall be as follows: In the case of appeal of denials, revocations and suspensions the representatives of the department, board, commission or person from whose order the appeal is taken shall speak first and shall be allowed seven minutes for their presentation and three minutes for rebuttal.

The appellant whose permit has been denied, revoked or suspended shall be allowed seven minutes for oral argument and three minutes for rebuttal.

In the case of protest appeals, the protestor shall speak first and shall be allowed seven minutes to present oral argument and three minutes for rebuttal, and the permit holder shall be allowed seven minutes to present oral argument and three minutes for rebuttal. The Board may request a departmental response at its own discretion.

Other persons desiring to speak before the Board on an appeal may speak once for up to three minutes.

SPECIAL NOTES

Mailed notices of public hearings on appeals are sent to all parties at least five days prior to the date of hearing. In the event that a matter is continued to a specific date by the presiding officer and announced to the parties in the hearing room, no additional mailed notice will be sent. Please call the Board office at 575-6880 for scheduling or other information during regular business hours, or visit our website at www.ci.sf.ca.us/bdappeal/index.html.

Briefs are limited to twelve pages, excluding exhibits, which should be tabbed for easy reference.

The complete Rules of the Board are available for review at the Board office.

Material submitted by the public for Board review prior to a scheduled hearing before the Board, should be addressed to Arnold Y.K. Chin, President, and be received at the Board office, 1660 Mission Street, Room 3036, no later than 4:00 p.m. the Thursday (six days) prior to the scheduled public hearing. Persons unable to attend the scheduled public hearing may submit written comments regarding a calendared item to the Board office. Comments received before noon on the day of the hearing will be made a part of the official record and will be brought to the attention of the Board at the public hearing. For complete distribution to all Commissioners of the Board, necessary staff and case files, submit an original and ten copies.

Pursuant to Government Code Section 65009, if you challenge, in court, the approval of a variance or development permit, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Board of Appeals at, or prior to, the public hearing.

Calendared items are sometimes withdrawn or rescheduled to a later date prior to hearing, or are taken out of order to accommodate special needs. The Board urges all parties to be present in the hearing room from 5:00 p.m. so that everyone has an opportunity to participate in the relevant public hearing when it is called.

PROHIBITION OF SOUND-PRODUCING ELECTRONIC DEVICES

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

ACCESSIBILITY INFORMATION

American sign language interpreters and/or sound enhancement system will be available upon request by contacting Catherine Johnson at 575-6882 at least 72 hours prior to the hearing. Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call the accessibility hotline at 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City accommodate these individuals. The closest accessible BART station is the Civic Center station located at the intersection of Market, Hyde and Grove Streets. Accessible curbside parking has been designated at points along McAllister Street. Accessible MUNI lines serving City Hall are the 42 Downtown Loop, 9 San Bruno and 71 Haight/Noriega and the F line. Accessible MUNI Metro lines are the J, K, L, M, and N. For more information regarding MUNI accessible services, call (415) 923-6142.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force: Donna Hall, Sunshine Ordinance Task Force, City Hall, Room 409, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102-4683, Phone (415) 554-7724, fax (415) 554-7854, and e-mail Donna_Hall@ci.sf.ca.us. Copies of the Sunshine Ordinance can be obtained from the Clerk of the Sunshine Task Force, the San Francisco Public Library, and on the City's website at www.ci.sf.ca.us/bdsupvrs/sunshine.

LOBBYING ACTIVITY

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Campaign and Governmental Conduct Code § 2.100] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415) 581-2300; fax (415) 581-2317; web site www.sfgov.org/ethics.

COMMUNICATIONS

Note: Each item on this agenda may include the following documents:

1. Appellant's statement and rebuttal brief.
2. Permit holder's response and rebuttal brief.
3. Department decision, permit, determination or resolution.
4. Public correspondence.

These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter.

CITY AND COUNTY OF SAN FRANCISCO
Board of Appeals
Robert H. Feldman, Executive Secretary
1660 Mission Street, Room 3036
San Francisco, California 94103
(415) 575-6880

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES - WEDNESDAY, FEBRUARY 6, 2002

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

PRESENT: President Arnold Chin, Vice President Sabrina Saunders, Commissioner Carole Cullum, Commissioner Allam El Qadah, and Commissioner John McInerney.

Judith Boyajian, Deputy City Attorney, Office of the City Attorney (DCA, OCA); Larry Badiner, Zoning Administrator, Planning Dept.; Rafael Torres-Gil, Senior Building Inspector, DBI; and Robert Feldman, Executive Secretary for the Board; Substitute Official Court Reporter. Claudine Woeber.

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

SPEAKER: David Buzby of 1373 Third Street reported on additional facts concerning Appeal No. 01-196 heard and decided on January 30, 2002. He described the history of the subject building before it was taken over by the Regents of U.C.

(2) **COMMISSIONERS COMMENTS & QUESTIONS:**

SPEAKERS: President Chin thanked the staff for contacting the Bar Association concerning referrals for citizens dealing with the appeal process.

(3) **ADDENDUM ITEMS:**

ITEM A: 1432-1434 Kearny Street. Letter from Steve Atkinson, attorney for permit holders Nan & Nathan Roth, requesting rehearing of Appeal Nos. 00-258/259/260/261, Cooper & Kirkham vs. DBI, PDA & Kuhn vs. DBI, PDA, decided August 22, 2001. Upon motion by Commissioner McInerney, the Board voted 4-1 (President Chin dissented) to revoke both permits. Appellants: Josef Cooper, Tracy Kirkham, and Alan Kuhn. Project: To demolish a garage, and construct a three-story two-family dwelling.

ACTION: This matter was withdrawn by the requestors.

ITEM B: 2252 Beach Street. Letter from John Sanger, attorney for appellants Clyde & Lisa Ikeda, requesting rehearing of Appeal 01-194, Ikeda vs. DBI, PCD, decided January 9, 2002. Upon motion by Commissioner Cullum, the Board voted 3-1-1 (President Chin dissented, Commissioner McInerney recused) to overrule the denial by the Planning Commission and grant the subject permit per the revised plans submitted by the appellants' attorney. Four votes being necessary to overturn any departmental action, the motion failed, and the denial by the Planning Commission was upheld. § 14 Principal(s): Richard Garcia, and Robert & Dorothy Chan. Project: third floor addition, interior remodel, one-story addition with terrace above located at rear.

ACTION: This matter was withdrawn by the requestors.

ITEM C: 255 Chestnut Street. Letter from Andreas & Judith Katz, appellants, requesting rehearing of Appeal No. 01-180, Katz vs. DBI, PDA, heard Jan. 9, 2002. Upon motion by Commissioner McInerney, the Board voted 5-0 to uphold the subject permit. Permit Holder(s): Stuart Fuss. Project: replace and repair windows and roof, lower roof line, cut west side of cottage wall and footing to correct property line encroachment; remodel bathroom, electrical and plumbing.

ACTION: This matter was withdrawn by the requestors.

ITEM D: 1001 California Street #9R. Letter from Walter Wong, agent for Mille Meals Inc., Requestor/Permit Holder, asking that the Board take jurisdiction over a Zoning Administrator Request for Suspension regarding Building Permit Application No. 2001/10/21/1357 (remove counter top for bar; remove non-load bearing walls; remove plywood or raise floor in seating area; no structural work).

Date request issued:	November 2, 2001
Last day to appeal:	November 17, 2001
Date jurisdiction request received:	January 23, 2002

ACTION: This matter was rescheduled to March 20, 2002.

SPEAKERS: There were no speakers for either side.

(4) **CONSENT ITEMS:** With the consent of the Department of Building Inspection, the Board will proceed to a vote without testimony to reduce the penalty (investigation fee) to two times the regular fee as provided for in the Building Code. Without consent the Board will take testimony and then decide the appeal.

(4A) **APPEAL NO. 01-229**

BRIAN McDONALD, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[497 Collingwood Street.
[Appealing the imposition of penalty on
[December 7, 2001, for work done without a
[permit.
[APPLICATION NO. 2001/08/16/6180.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Cullum, the Board voted 4-0-1 (President Chin absent) to reduce the penalty to two times the regular fee, and that this penalty be based on a $5000 estimate for cost of work done.

SPEAKERS: Brian McDonald, appellant, explained that he thought that no permit was required for the construction of a deck the size of his and so he began the work without a permit. Rafael Torres-Gil, SBI for DBI, explained the Building Code requirements and described what the inspector had related to him about her observations.

(4B) **APPEAL NO. 01-231**

ANDREW K.C. LOCK, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[1530 – 27TH Avenue.
[Appeal for refund of penalty imposed on [December 11, 2001, for work done without a [permit.
[APPLICATION NO. 2001/11/29/4188.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner El Qadah, the Board voted 4-0-1 (President Chin absent) to reduce the penalty to two times the regular fee.

SPEAKERS: DBI consented.

(4C) **APPEAL NO. 01-244**

CATHIANN MOONEY, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[509 Ashbury Street.
[Appeal for refund of penalty imposed on [December 28, 2001, for work done without a [permit.
[APPLICATION NO. 2001/12/04/4504.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner El Qadah, the Board voted 4-0-1 (President Chin absent) to reduce the penalty to two times the regular fee.

SPEAKERS: DBI consented.

4D) **APPEAL NO. 02-003**

EMERALD FUND, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent

[3961 Alemany Boulevard.
[Appeal for refund of penalty imposed on [December 19, 2001, for electrical work done [without a permit.
[APPLICATION NO. E235451.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner El Qadah, the Board voted 4-0-1 (President Chin absent) to reduce the penalty to four times the regular fee.

SPEAKERS: Ryan Caulfield, agent for appellant, explained how the work done was for PG&E and so he thought that no permit were necessary and when he found out permits were needed he then pulled them. Rafael Torres-Gil, SBI for DBI, requested the penalties be upheld because the appellant is an experienced contractor who is presumed to know the requirements of the Codes.

(4E) **APPEAL NO. 02-004**

EMERALD FUND, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent

[3901 Alemany Boulevard.
[Appeal for refund of penalty imposed on [December 19, 2001, for electrical work done [without a permit.
[APPLICATION NO. E235452.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner El Qadah, the Board voted 4-0-1 (President Chin absent) to reduce the penalty to four times the regular fee.

SPEAKERS: See Appeal No. 02-003

(4F) **APPEAL NO. 01-169**

JANICE GUAN, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[1000 Bowdoin Street.
[Appeal for refund of penalty imposed on [September 27, 2001, for work done without a [permit.
[APPLICATION NO. 2001/09/27/9346.
[ORIGINAL HEARING DEC. 5, 2001 (PENALTY [UPHELD DUE TO NON-APPEARANCE BY [APPELLANT).
[REQUEST FOR REHEARING GRANTED TO [APPELLANT JAN. 9, 2002.
[FOR REHEARING TODAY.

ACTION: Upon motion by Commissioner El Qadah, the Board voted 4-0-1 (President Chin absent) to reduce the penalty to five times the regular fee.

SPEAKERS: Janice Guan, speaking for her mother, said that the cost of the project was not as high as the Department calculated so that the permit fee should be reduced. She said the work was done without a permit because they thought adding a second kitchen is allowed. RafaelTorres-Gil, SBI for DBI, said he had spoken to the inspector and the violations have been corrected and the room is now legal.

4G) **APPEAL NO. 02-006**

ANTONIO FRANCO, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[515 Grafton Avenue.
[Appealing the imposition of penalty on January [9, 2002, for work done without a permit.
[APPLICATION NO. 2001/04/18/7108.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner El Qadah, the Board voted 4-0-1 (President Chin absent) to reduce the penalty to five times the regular fee.

SPEAKERS: Antonio Franco, appellant, speaking through a translator said he thought no permits were necessary for the type of repairs he made. Mr. Sandoval, the translator, speaking for himself said that it was only a small stone structure used as a shed and it was changed to a concrete foundation but with the same footprint.

(5) **APPEAL NO. 01-134**

FRANK S. DUARTE, JR., Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent

[1196 Hampshire Street.
[Protesting issuance on August 13, 2001, to [William Sorenson & James Cline, Permit to [Alter A Building (complete work started under Building Permit Application Nos. 9912409 and [2000/08/17/8163, correct estimated cost and [comply with Notice of Violation).
[APPLICATION NO. 2001/08/13/5945.
[ORIGINAL HEARING OCT. 3, 2001 (PERMIT [UPHELD).
[REQUEST FOR REHEARING GRANTED TO [LAURENCE KORNFIELD NOV. 7, 2001.
[FOR REHEARING TODAY.

ACTION: This matter was rescheduled to March 6, 2002 prior to hearing.

SPEAKERS: There were no speakers.

(6) **APPEAL NO. 01-235**

ARIK SHARABI, Appellant(s)
vs.
POLICE DEPARTMENT, Respondent

[Northeast Corner of Drumm & California.
[Appealing denial on December 3, 2001, of [Pushcart Peddler Permit.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner McInerney, the Board voted 4-0-1 (President Chin absent) to reschedule the matter to April 3, 2002.

SPEAKERS: Roni Rotholtz, attorney for the appellant, asked that the appeal be rescheduled to a night with five members sitting and March 13 was acceptable. Sgt. William Coggan of the S.F.P.D. asked for a later date such as April 3.

(7) **APPEAL NO. 01-206**

SMITH KETTLEWELL EYE RESEARCH INSTITUTE (SKERI), Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[2389 Washington Street; 2209, 2232, 2238, [2244 & 2250 Webster Street; 2472 Clay Street; [and 2318 Fillmore Street.
[Appealing determination dated October 22,

[2001, that Planning Commission policies [imposing limitations on specific properties as [part of approval actions are part of the Planning [Code and thus enforceable by the Zoning [Administrator, and that the SKERI expansion [into existing structures constitutes "structural [expansion" as prohibited in Planning [Commission Motion No. 5998.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner President Chin, the Board voted 5-0 to reschedule the matter to March 13, 2002.

SPEAKERS: John Sanger, attorney for the appellant requested a rescheduling for the hearing for lack of a five member Board. Timothy Tosta, attorney for the neighbor opposing the appellant agreed to a rescheduling to March 13. He asked for a show of hands of those in support of his clients and fifty hands went up in the audience.

(8) **APPEAL NO. 01-213**

MICAELA LEZCANO, Appellant(s)
Vs.
DEPT. OF PUBLIC WORKS, Respondent

[3560-3566 - 20th Street.
[Denial on October 25, 2001, of Permit to [Remove Two Trees (without replacement).
[ORDER NO(S). 173,215 & 173,232
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Cullum, the Board voted 4-0-1 (President Chin absent) to uphold the subject denial.

SPEAKERS: Paul Sacamano, urban forester for DPW explained the fine condition of the tree and why the species was suitable for the site. The appellant did not make an appearance.

(9) **APPEAL NO. 01-217**

LILLIE & JIMMY TAYLOR, Appellant(s)
Vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[1339 Shafter Street.
[Protesting issuance on October 30, 2001, [to [Timothy Peterson, Permit to Alter a Building [(show rear stairs from garage to rear yard as [new, show rear garage door to access rear [stairs as new).
[APPLICATION NO. 2001/10/30/2110.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner El Qadah, the Board voted 4-0-1 (President Chin absent) to uphold the subject permit on condition that the blank wall be extended 3 feet following the slope of the staircase, which is to be executed in an attractive manner and in consultation with the Planning Dept.

SPEAKERS: Lillie Taylor, protestor said she has lived in the house next door to the subject house for 27 years and she explained how the new stairs will be a hazard for the children she takes care of and how she feels about the transient tenants who live in the permit holder's house. Timothy Peterson, permit holder, explained how he had gotten all the required permits for the job and how he had spoken to his tenants after Ms. Taylor had reported their behavior to him.

PUBLIC COMMENT FOR EITHER SIDE: Larry Badiner, ZA, said that the project required no Section 311 notification to the neighbor. Rafael Torres-Gil said that his Department had no objection to the project which was according to the Code. Jimmy Taylor, co-appellant, said he felt that only one set of stairs is needed for the house not two. It seems that the owner wants to turn the house into a complex, and there are seven cars there and the stairs present a hazard to their grandkids and foster kids.

(10) **APPEAL NO. 01-218**

JIAN PANG, Appellant(s)
Vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[123 Nueva Avenue.
[Protesting issuance on October 31, 2001, to [Asta Ou, Permit to Alter a Building (legalize [family room, study room, and bathroom on [ground floor).
[APPLICATION NO. 2001/10/31/2148.
[FOR HEARING TODAY.

ACTION: This matter was rescheduled to March 6, 2002 prior to hearing.

SPEAKERS: There were no speakers for either side.

(11) **APPEAL NO. 01-237**

AGNES KOZEL dba "SAVOY TIVOLI", Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[1434-1438 Grant Avenue.
[Appealing a determination dated December 6, [2001, that the kitchen of the subject [establishment was operating after the effective [date of the Neighborhood Commercial controls [and was closed subsequently, and that [consequently, the change of the operation of [this establishment to a bar only (without food [service) would have then (and now does) [require a Conditional Use (CU) authorization.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner El Qadah, the Board voted 4-0-1 (President Chin absent) to overrule the subject determination and not require Conditional Use (CU) authorization.

SPEAKERS: Larry Badiner, ZA, said the issue is when did they stop serving food. If before 1987 then it is an automatic conditional use and can still operate without new permission from the Commission. If after 1987 then they need a new conditional use authorization. The Dwellers say food service stopped after 1987. Vincent deMartini, attorney for the appellant, said the documents related to the history of the use since the fire are vague and not clear. He said there was much testimony and letters that the food service stopped when the fire occurred in 1982 and no food service has been reinstated. His client purchased the building in 1982 and opened as bar only in 1983. All her employees attest to the fact no food has been served since 1982.

No public comment for either side.

(12) **APPEAL NO. 01-238**

ERIK VON MULLER & PETER FRY, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[4733 – 18th Street.
[Appealing a Determination dated December 13, [2001 that Building Permit Application No(s). [2000/12/20/8359 be suspended, and that all [work already completed but not conforming to [that shown on the plans for Site Permit [Addendum No(s). 9817703/S-1 be removed by [the project sponsor.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner McInerney, the Board voted 4-0-1 (President Chin absent) to reschedule the matter to April 3, 2002.

SPEAKERS: Sue Hestor, said that Reuben and Alter formerly represented the permit holder and she asked that Vice President McInerney be recused. Alice Barkley, attorney for the appellant said her side needs four votes to prevail and she objected to Mr. McInerney being recused.

Judith Boyajian in response to a Board question said a matter could be heard by the Board with an absent member reading all the material and listening to the tapes and then participating in the vote at a later meeting.

Larry Badiner, ZA, said that there is a common misunderstanding regarding stairwell penthouses among his staff and they are required to have Section 311 notification to the neighbors and his staff now gets it. Here the staff thought the over-the-counter permit was not a modification to the exterior but they were wrong. Alice Barkley for the appellants said that the project started with a hatch to the roof but the DBI required a stair penthouse and Planning said no Section 311 Notice was necessary and the neighbors had constructive notice since November and yet they took no action though they did get a Supervisor involved. Now penthouse is done and it would be wrong to make them remove it.

PUBLIC COMMENT FOR ZA: Sue Hestor for the neighbors said there is no vested right here since work was done without a permit and this Board shouldn't short circuit the Planning Code procedure and the staff didn't follow the Code since you can't expand the envelope without Section 311 Notice. Marian Anderson showed view from her back steps and from Corelli Street, and she said she did object to Mr. Baumann as soon as she saw the plans.

Judith Boyajian in response to a question from the Board said that neighbors are entitled to speak for up to three minutes even if they are clients of Sue Hestor under the Sunshine Ordinance.

Jeff Demma showed various perspectives from his home and said he had spoken to the owners and they finally admitted there would be a fifth floor and he feels there should have been Section 311 Notice so neighbors could have spoken up about the fifth floor. A Supervisor had suggested they retain legal counsel and they have. Jeff Marready said it is an illegal eyesore and the only option is to follow the determination of the ZA. To overrule would be a bad precedent. Keith Packer said he is Marready's partner and he supports giving a new 311 Notice. He said they hadn't sat on their rights but they didn't know who to talk to after they saw it in November. Sue Braselmann says she has been duped or conned by the drawing that accompanied the Section 311 Notice since the house looks as if there is no fourth story.

NO PUBLIC COMMENT FOR APPELLANTS:

Rafael Torres-Gil explained how it is the State Building Code and the Uniform Building Codes that require the stair penthouse on four-story houses of a certain height for fire fighting reasons on a four-story building.

(13) **APPEAL NO. V01-242**

ROBERTO SAINEZ, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[816 Guerrero Street.
[Appealing the denial on December 18, 2001, of [Front Setback, Rear Yard, Parking & Exposure [Variances (convert single-family house into a [three-unit building which would include [construction of a garage structure in the front [setback area, a vertical addition at the rear of [the building, and a new fire escape at the side [of the building).
[VARIANCE CASE NO. 2001.0115V.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner McInerney, the Board voted 4-0-1 (President Chin absent) to uphold the denial of the Rear Yard, Parking and Exposure variances, and to overrule the denial of the Front Setback variance with findings to be prepared by the Zoning Administrator.

SPEAKERS: Brenda Cruz Keith, attorney for appellant withdrew her objections to all but the parking issue and the front setback. Larry Badiner, ZA, explained that a three unit building is required to have three parking spaces and the variance is to make it possible to build the new garage in the front setback area. But there are no exceptional circumstances to base the variance on and he would do new findings if Board felt it should be granted. Maxwell Beaumont, architect, explained his plans and said they had had rigorous review at Planning. He said it was a hardship because his client was the only owner on the block without a garage.

(14) **APPEAL NO. 01-189**

PAULA DAVIS DeBELLA
& STAN DeBELLA, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[1209 Vicente Street.
[Protesting issuance on October 11, 2001, to [Amasia Television (then new owner Dennis [Liu), Permit to Demolish a Building (one-story [retail building, 15 feet in height with 2500sf of [ground floor area).
[APPLICATION NO. 2001/03/31/5734.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner McInerney, the Board voted 5-0 to uphold the subject demolition permit on condition that action on this permit be suspended until a valid site permit is approved by the Planning Dept.

SPEAKERS: Sue Hestor attorney for the appellants said it is a very complicated case with a conditional use having been approved, the property then changing hands and the plans changing substantially and now a demolition permit being issued and here appealed and no proper notice given the neighbors. She said the demolition appeared to cut through a door on the adjoining property. Paula deBella, appellant, explained her problem with the Block Book Notification which never got her notice of this demolition permit. Larry Badiner, ZA, explained the nature of the conditional use approval and how the BBN system is supposed to work, and how the proposal has changed since the Commission approved it. Rafael Torres-Gil, SBI of DBI, explained how the notice requirements are met for demolitions and that the records show they were not met in this case. Dan Sullivan of Jaidin Consulting spoke for the permit holder and explained how the proposed building will affect the appellants and he said his client is willing to proceed with the project as it was at the Commission with the height discrepancy corrected. He noted that the location is in a Neighborhood Commercial district which has less restrictive standards than a residential district.

There being no further business, President Chin adjourned the meeting at 9:49 p.m.

Arnold Y. K. Chin, President

Robert H. Feldman, Executive Secretary

Transcripts of these hearings can be obtained from Easteller Bruihl, the Official Court Reporter, (415) 348-0050.

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S.F. Public Library
Main Branch, 5th Floor
Attn: Terry Gwiazdowsky

BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

REGULAR MEETING - WEDNESDAY, FEBRUARY 20, 2002

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

20/02

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

DOCUMENTS DEPT.

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(2) **COMMISSIONERS COMMENTS & QUESTIONS:**

(3) **ADDENDUM ITEMS:**

ITEM A: Letter from Donna DeMatteo, attorney for Mary Skinner & Sharron Wood, Requestors, asking that the Board take jurisdiction over Building Permit Application No. 2002/01/04/6252. Permit Holder: Will Oswald. Project: remove damaged plaster in various parts of building caused by work covered in BPA No. 2001/09/25/9189; walls and floors to be opened up for inspection by structural engineer; no structural work to be performed.

Date permit issued:	January 4, 2002
Last day to appeal:	January 19, 2002
Date jurisdiction request received:	February 1, 2002

02-20-02A11:27 RCVD

(4) **APPEAL NO. 02-013**

DIMITRI DESMONS &
VALERIE HANCOCK-DESMONS, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent

[50 Alma Street.
[Protesting issuance on January 11, 2002, to
[Linda Vann-Adibe, Permit to Alter a Building
[(install solar system).
[APPLICATION NO. 2002/01/11/6794.
[FOR HEARING TODAY.

(5) **APPEAL NO. 01-223**

ALEX & JUDITH SALDAMANDO, DOUGLAS BARTLETT, WAI YIP TUNG, MARGARET TANG & MICHAEL GAMBLE, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[720 Arkansas Street.
[Protesting issuance on November 9, 2001, t
[Paul Wong, Permit to Erect a Building (fou
[story, two-unit building, 29 feet in height, wit
[446sf of ground floor area).
[APPLICATION NO. 2001/02/28/3163.
[FOR HEARING TODAY.

(6) **APPEAL NO. V01-170**

ROSE PARDINI, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[745 Brazil Avenue.
[Appealing denial of Rear Yard Variance (thir
[floor addition of an existing legal nor
[complying dwelling structure located in th
[required rear yard)
[VARIANCE CASE NO. 2001.0615V
[PUBLIC HEARING HELD JAN. 16, 2002.
[FOR FURTHER CONSIDERATION TODAY.

(7) **APPEAL NO. 01-238**

ERIK VON MULLER & PETER FRY, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[4733 – 18th Street.
[Appealing a Determination dated December
[2001 that Building Permit Application No(
[2000/12/20/8359 be suspended, and that
[work already completed but not conforming
[that shown on the plans for Site Per
[Addendum No(s). 9817703/S-1 be removed
[the project sponsor.
[PUBLIC HEARING HELD & CLOSED FEB.
[2002.
[FOR FURTHER CONSIDERATION TODAY.

ITEMS (8A) & (8B) SHALL BE HEARD TOGETHER:

(8A) **APPEAL NO. 01-021**

POTRERO BOOSTERS NEIGHBORHOOD ASSN. & DOGPATCH NEIGHBORHOOD ASSN., Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[691 Tennessee Street.
[Protesting issuance on January 10, 2001,
[Robert Miller, Site Permit to Erect a Build
[(25 live/work units).
[APPLICATION NO. 9917435S.
[FOR HEARING TODAY.

(8B) **APPEAL NO. 01-022**

POTRERO BOOSTERS NEIGHBORHOOD ASSN. & DOGPATCH NEIGHBORHOOD ASSN., Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[691 Tennessee Street.
[Protesting issuance on January 10, 2001, to [Robert Miller, Permit to Demolish a Building [(metal shed).
[APPLICATION NO. 9917436.
[FOR HEARING TODAY.

ITEMS (9A) & (9B) SHALL BE HEARD TOGETHER:

(9A) **APPEAL NO. 01-039**

RICK HOLMAN, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[445 Bryant Street.
[Protesting issuance on January 29, 2001, to [Armax, Inc., Permit to Demolish a Building [(office building).
[APPLICATION NO. 9912958.
[FOR HEARING TODAY.

(9B) **APPEAL NO. 01-040**

RICK HOLMAN, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[445 Bryant Street.
[Protesting issuance on January 29, 2001, to [Armax, Inc., Site Permit to Erect a Building [(eight live/work units).
[APPLICATION NO. 2000/09/15/7935S.
[FOR HEARING TODAY.

(10) **APPEAL NO. 01-222**

BRENDAN LALOR, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING COMMISSION DISAPPROVAL

§ 14 Principals: SHUI HUNG & SO CHUN LEE

[1117 Judah Street.
[Appealing denial on November 20, 2001, of [Site Permit to Erect a Building (four-story, two-[unit residential building with 1,575sf of ground [floor area).
[APPLICATION NO. 2000/10/16/3112S
[FOR HEARING TODAY.

(11) **APPEAL NO. 01-224**

JUDITH HOYEM, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[4038 – 17TH Street.
[Protesting issuance on November 13, 2001,
[Stephen Jones, Permit to Alter a Buildir
[(install eight-foot chain link fence).
[APPLICATION NO. 2001/10/05/0050.
[FOR HEARING TODAY.

(12) **APPEAL NO. 02-001**

MAX LIMITED, LLC, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[292 Ivy Street, a.k.a. 393-399 Grove Street, & 450 Gough
[Street, a.k.a. the "wood building."
[Appealing a determination dated December 18, 2001
[issued to Peer Logic/Critical Path & Max Limited LLC, tha
[the legal use of the 3rd floor of the wood building, prior to
[the Hayes-Gough NCD controls being established in 1987
[was a mix of gallery-related uses including a printmaking
[studio and frame shop; that the conversion of the non
[conforming gallery-related uses to business or professiona
[services use would qualify as a permitted conditional use
[that Peer Logic/Critical Path's use does not fit within th
[business or professional services definition; that Pe
[Logic/Critical Path's activities do not qualify as "business o
[professional services" pursuant to Planning Code
[790.108, and that Planning Code §'s 307(a) & 709(d) d
[not, in this case, enable him to make an "interpretation" o
[the Planning Code that would allow Peer Logic/Critica
[Path to occupy the 3rd floor of 292 Ivy Street withou
[meeting the definition of a use permitted as-of-right or wit
[conditional use authorization in the Hayes-Gough Distric
[such as business/professional services.
[FOR HEARING TODAY.

(13) **APPEAL NO. 02-002**

PAL SINGH & JOEL HUNT, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent

[50 Mason Street.
[Appealing the revocation on December 1
[2001, of Permit to Alter a Building (change
[use from barber shop to apparel sto
[including new partitions, display platfor
[ventilation, and disabled access upgrades).
[APPLICATION NO. 2001/10/18/1182.
[FOR HEARING TODAY.

(14) **APPEAL NO. 02-005**

STEPHEN & PATRICIA MURPHY, Appellant(s)	[240 San Fernando Way.
vs.	[Protesting issuance on December 21, 2001, to
DEPT. OF BUILDING INSPECTION, Respondent	[David Leigh, Permit to Alter a Building [(vertical and side additions).
PLANNING DEPT. APPROVAL	[APPLICATION NO. 2000/09/25/1401S. [FOR HEARING TODAY.

(15) **SPECIAL ITEMS:**

ITEM A: Proposed Board of Appeals Departmental Budget, fiscal year 2002-2003. For public hearing, consideration and adoption.

ITEM B: Proposed ordinance to delete Code requirement that Board of Appeals appoint an Official Court Reporter to attend meetings. § 11 of Part III of the Municipal Code. For public hearing, consideration and adoption today.

ADJOURNMENT.

Note: Each item on this agenda may include the following documents:

1. Appellant's statement and rebuttal brief.
2. Permit holder's response and rebuttal brief.
3. Department decision, permit, determination or resolution.
4. Public correspondence.

These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter.

Date posted: Feb. 14, 2002

MEMBERS OF THE BOARD OF APPEALS

ARNOLD Y.K. CHIN	PRESIDENT
JOHN E. MCINERNEY, III	VICE PRESIDENT
CAROLE S. CULLUM	COMMISSIONER
ALLAM M. EL QADAH	COMMISSIONER
SABRINA N. SAUNDERS	COMMISSIONER

EASTELLER BRUIHL - OFFICIAL COURT REPORTER 348-0050

PROCEDURE AT HEARINGS

The order of presentation of an appeal shall be as follows: In the case of appeal of denials, revocations and suspensions the representatives of the department, board, commission or person from whose order the appeal is taken shall speak first and shall be allowed seven minutes for their presentation and three minutes for rebuttal.

The appellant whose permit has been denied, revoked or suspended shall be allowed seven minutes for oral argument and three minutes for rebuttal.

In the case of protest appeals, the protestor shall speak first and shall be allowed seven minutes to present oral argument and three minutes for rebuttal, and the permit holder shall be allowed seven minutes to present oral argument and three minutes for rebuttal. The Board may request a departmental response at its own discretion.

Other persons desiring to speak before the Board on an appeal may speak once for up to three minutes.

SPECIAL NOTES

Mailed notices of public hearings on appeals are sent to all parties at least five days prior to the date of hearing. In the event that a matter is continued to a specific date by the presiding officer and announced to the parties in the hearing room, no additional mailed notice will be sent. Please call the Board office at 575-6880 for scheduling or other information during regular business hours, or visit our website at www.ci.sf.ca.us/bdappeal/index.html.

Briefs are limited to twelve pages, excluding exhibits, which should be tabbed for easy reference.

The complete Rules of the Board are available for review at the Board office.

Material submitted by the public for Board review prior to a scheduled hearing before the Board, should be addressed to Arnold Y.K. Chin, President, and be received at the Board office, 1660 Mission Street, Room 3036, no later than 4:00 p.m. the Thursday (six days) prior to the scheduled public hearing. Persons unable to attend the scheduled public hearing may submit written comments regarding a calendared item to the Board office. Comments received before noon on the day of the hearing will be made a part of the official record and will be brought to the attention of the Board at the public hearing. For complete distribution to all Commissioners of the Board, necessary staff and case files, submit an original and ten copies.

Pursuant to Government Code Section 65009, if you challenge, in court, the approval of a variance or development permit, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Board of Appeals at, or prior to, the public hearing.

Calendared items are sometimes withdrawn or rescheduled to a later date prior to hearing, or are taken out of order to accommodate special needs. The Board urges all parties to be present in the hearing room from 5:00 p.m. so that everyone has an opportunity to participate in the relevant public hearing when it is called.

PROHIBITION OF SOUND-PRODUCING ELECTRONIC DEVICES

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

ACCESSIBILITY INFORMATION

American sign language interpreters and/or sound enhancement system will be available upon request by contactin Catherine Johnson at 575-6882 at least 72 hours prior to the hearing. Individuals with severe allergies, environmenta illness, multiple chemical sensitivity or related disabilities should call the accessibility hotline at 554-8925 to discus meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings reminded that other attendees may be sensitive to various chemical-based products. Please help the City accommodate these individuals. The closest accessible BART station is the Civic Center station located at th intersection of Market, Hyde and Grove Streets. Accessible curbside parking has been designated at points alon McAllister Street. Accessible MUNI lines serving City Hall are the 42 Downtown Loop, 9 San Bruno and 71 Haight/Norieg and the F line. Accessible MUNI Metro lines are the J, K, L, M, and N. For more information regarding MUNI accessib services, call (415) 923-6142.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, counci and other agencies of the City and County exist to conduct the people's business. This ordinance assures th deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Cod or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force: Donna Hall, Sunshine Ordinan Task Force, City Hall, Room 409, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102-4683, Phone (415) 554-772 fax (415) 554-7854, and e-mail Donna_Hall@ci.sf.ca.us. Copies of the Sunshine Ordinance can be obtained from tl Clerk of the Sunshine Task Force, the San Francisco Public Library, and on the City's website www.ci.sf.ca.us/bdsupvrs/sunshine.

LOBBYING ACTIVITY

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required the San Francisco Lobbyist Ordinance [SF Campaign and Governmental Conduct Code § 2.100] to register and rep lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethi Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415) 581-2300; fax (415) 58 2317; web site www.sfgov.org/ethics.

COMMUNICATIONS

Note: Each item on this agenda may include the following documents:

1. Appellant's statement and rebuttal brief.
2. Permit holder's response and rebuttal brief.
3. Department decision, permit, determination or resolution.
4. Public correspondence.

These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter.

CITY AND COUNTY OF SAN FRANCISCO
Board of Appeals
Robert H. Feldman, Executive Secretary
1660 Mission Street, Room 3036
San Francisco, California 94103
(415) 575-6880

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES - WEDNESDAY, FEBRUARY 20, 2002

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

PRESENT: President Chin, Vice President John McInerney, Commissioner Carole Cullum, Commissioner Allam el Qadah, and Commissioner Sabrina Saunders.

Judith Boyajian, Deputy City Attorney, Office of the City Attorney (DCA, OCA); Larry Badiner, Zoning Administrator, Planning Dept.; Rafael Torres-Gil, Senior Building Inspector, DBI; and Robert Feldman Executive Secretary for the Board; Official Court Reporter, Easteller Bruihl.

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

SPEAKER: None

(2) **COMMISSIONERS COMMENTS & QUESTIONS:** President Chin thanked the staff for the annual report and Proposed Budget for FY2002-2003.

SPEAKER: President Chin thanked the staff for the annual report and proposed Budget for FY2002-2003

(3) **ADDENDUM ITEMS:**

ITEM A: 1060 Green Street. Letter from Donna DeMatteo, attorney for Mary Skinner & Sharron Wood, Requestors, asking that the Board take jurisdiction over Building Permit Application No. 2002/01/04/6252. Permit Holder: Will Oswald. Project: remove damaged plaster in various parts of building caused by work covered in BPA No. 2001/09/25/9189; walls and floors to be opened up for inspection by structural engineer; no structural work to be performed.

Date permit issued:	January 4, 2002
Last day to appeal:	January 19, 2002
Date jurisdiction request received:	February 1, 2002

ACTION: Upon motion by President Chin, the Board voted 5-0 to deny jurisdiction.

SPEAKERS: Mark Janowitz, attorney for the requestors, said the appeal hadn't been filed in time because he had just gotten with the case at the end of January and didn't receive the file until January 28, and the request letter was submitted February 1. His client had stayed in the building until she couldn't bear it anymore. Molly Brennan, attorney for the permit holder, said she had last week to review this request and that it is inaccurate as there are seven units in the building that are legal; it was built in 1907 and converted to seven units during the 1920s. She said that there will be no prejudice to either landlord or tenant if jurisdiction is granted. Lawrence Kornfield, CBI, DBI, said that there are seven legal units and the permit is incorrect. He said if asked to by the Board the Department would require that a new permit application be submitted that would clear up the vagueness of the subject one.

(4) **APPEAL NO. 02-013**

DIMITRI DESMONS &	[50 Alma Street.
VALERIE HANCOCK-DESMONS, Appellant(s)	[Protesting issuance on January 11, 2002, to
vs.	[Linda Vann-Adibe, Permit to Alter a Building
DEPT. OF BUILDING INSPECTION,	[(install solar system).
Respondent	[APPLICATION NO. 2002/01/11/6794.
	[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Cullum, the Board voted 5-0 to uphold the subject permit with the conditions as stipulated to by the principals.

SPEAKERS: None.

(5) **APPEAL NO. 01-223**

ALEX & JUDITH SALDAMANDO,	[720 Arkansas Street.
DOUGLAS BARTLETT, WAI YIP TUNG,	[Protesting issuance on November 9, 2001, to
MARGARET TANG & MICHAEL GAMBLE,	[Paul Wong, Permit to Erect a Building (four-
Appellant(s)	[story, two-unit building, 29 feet in height, with
vs.	[446sf of ground floor area).
DEPT. OF BUILDING INSPECTION,	[APPLICATION NO. 2001/02/28/3163.
Respondent	[FOR HEARING TODAY.
PLANNING DEPT. APPROVAL	

ACTION: Upon motion by President Chin, the Board voted 5-0 to uphold the subject permit with the conditions as stipulated to by the principals.

SPEAKERS: Alex Saldamando, appellant, explained the agreement that has been reached by the parties and asked the Board to uphold the permit and attach the agreement as condition to approval. Larry Badiner said that since this is a private agreement that it would not be appropriate to require that it be recorded on the land records as a notice of special restrictions.

(6) **APPEAL NO. V01-170**

ROSE PARDINI, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[745 Brazil Avenue.
[Appealing denial of Rear Yard Variance (third [floor addition of an existing legal non-[complying dwelling structure located in the [required rear yard)
[VARIANCE CASE NO. 2001.0615V
[PUBLIC HEARING HELD JAN. 16, 2002.
[FOR FURTHER CONSIDERATION TODAY.

ACTION: Upon motion by Commissioner Cullum, the Board voted 4-0 to recuse President Chin. Then, upon motion by Commissioner Saunders, the Board voted 4-0-1 (President Chin absent) to uphold the denial of the subject variance. Then, upon motion by Commissioner Saunders, the Board voted 4-0-1 (President Chin absent) to rescind the previous motion to uphold the denial. And lastly, upon motion by Vice President McInerney, the Board voted 4-0-1 (President Chin absent) to continue the matter to the indefinite calendar (Call of the Chair).

SPEAKERS: None.

(7) **APPEAL NO. 01-238**

ERIK VON MULLER & PETER FRY, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[4733 – 18th Street.
[Appealing a Determination dated December 13, [2001 that Building Permit Application No(s). [2000/12/20/8359 be suspended, and that all [work already completed but not conforming to [that shown on the plans for Site Permit [Addendum No(s). 9817703/S-1 be removed by [the project sponsor.
[PUBLIC HEARING HELD & CLOSED FEB. 6, [2002.
[FOR FURTHER CONSIDERATION TODAY.

ACTION: Upon motion by Commissioner El Qadah, the Board voted 5-0 to continue the matter to March 6, 2002.

SPEAKERS: None.

ITEMS (8A) & (8B) WERE HEARD TOGETHER:

(8A) **APPEAL NO. 01-021**

POTRERO BOOSTERS NEIGHBORHOOD ASSN. & DOGPATCH NEIGHBORHOOD ASSN., Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent

[691 Tennessee Street.
[Protesting issuance on January 10, 2001, to [Robert Miller, Site Permit to Erect a Building [(25 live/work units).
[APPLICATION NO. 9917435S.
[FOR HEARING TODAY.

PLANNING DEPARTMENT APPROVAL

(8B) **APPEAL NO. 01-022**

POTRERO BOOSTERS NEIGHBORHOOD ASSN. & DOGPATCH NEIGHBORHOOD ASSN., Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[691 Tennessee Street.
[Protesting issuance on January 10, 2001, to [Robert Miller, Permit to Demolish a Building [(metal shed).
[APPLICATION NO. 9917436.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner El Qadah, the Board voted 5-0 to reschedule the matter to August 28, 2002.

SPEAKERS: None.

ITEMS (9A) & (9B) WERE HEARD TOGETHER:

(9A) **APPEAL NO. 01-039**

RICK HOLMAN, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[445 Bryant Street.
[Protesting issuance on January 29, 2001, to [Armax, Inc., Permit to Demolish a Building [(office building).
[APPLICATION NO. 9912958.
[FOR HEARING TODAY.

(9B) **APPEAL NO. 01-040**

RICK HOLMAN, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[445 Bryant Street.
[Protesting issuance on January 29, 2001, to [Armax, Inc., Site Permit to Erect a Building [(eight live/work units).
[APPLICATION NO. 2000/09/15/7935S.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner El Qadah, the Board voted 5-0 to reschedule the matter to March 13, 2002.

SPEAKERS: None.

MEETING MINUTES, BOARD OF APPEALS, FEBRUARY 20, 2002

(10) **APPEAL NO. 01-222**

BRENDAN LALOR, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING COMMISSION DISAPPROVAL

§ 14 Principals: SHUI HUNG & SO CHUN LEE

[1117 Judah Street.
[Appealing denial on November 20, 2001, of
[Site Permit to Erect a Building (four-story, two-
[unit residential building with 1,575sf of ground
[floor area).
[APPLICATION NO. 2000/10/16/3112S
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner El Qadah, the Board voted 5-0 to reschedule the matter to March 13, 2002 with the understanding that there will be no more rescheduling of this case. .

SPEAKERS: Mimi Lee, speaking for her parents, Sec. 14 principals in Appeal No. 01-222 objected to rescheduling the hearing to March 13, 2002 for the reason she and others had with difficulty showing up and would be inconvenienced if it is put over which shows a lack of respect for the neighbors of the project. David Cincotta, attorney for the permit holder, said that Ms. Lee had agreed to a continuance and then changed her mind. He had tried to reach her but there are three addresses for her and he needs time to review the shadow study that has been submitted. He said the additional time would allow the parties to reach an agreement.

(11) **APPEAL NO. 01-224**

JUDITH HOYEM, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[4038 – 17TH Street.
[Protesting issuance on November 13, 2001, to
[Stephen Jones, Permit to Alter a Building
[(install eight-foot chain link fence).
[APPLICATION NO. 2001/10/05/0050.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner El Cullum, the Board voted 5-0 to revoke the subject permit.

SPEAKERS: Judith Hoyem, appellant, said that all she is asking for is a bulge in the fence so she can get furniture and garbage cans out of the basement. She is now blocked by the fence. She asked the owner to move a fence pole so she can live with some degree of use but he has refused to move it. Joseph L. Schatz, attorney for the permit holder, said that the Board's jurisdiction is limited in this case because it deals with an easement over real property. While the courts have jurisdiction and the appellant has a remedy in court and could get a TRO if necessary. He asked that this matter be stayed until the litigation threatened by the appellant's lawyer was complete. He described the history of his client's efforts to demolish the building in order to build a new one in its place.

MEETING MINUTES, BOARD OF APPEALS, FEBRUARY 20, 2002

PUBLIC COMMENT FOR APPELLANT: Ms. Anne Farrar of 4048 17th Street gave a history of the houses and the Planning Commission's action in disapproving the proposal for a replacement building.

NO PUBLIC COMMENT FOR PERMIT HOLDER.

(12) **APPEAL NO. 02-001**

MAX LIMITED, LLC, Appellant(s)
vs.
ZONING ADMINISTRATOR,
Respondent

[292 Ivy Street, a.k.a. 393-399 Grove Street, & 450 Gough [Street, a.k.a. the "wood building."
[Appealing a determination dated December 18, 2001, [issued to Peer Logic/Critical Path & Max Limited LLC, that [the legal use of the 3rd floor of the wood building, prior to [the Hayes-Gough NCD controls being established in 1987, [was a mix of gallery-related uses including a printmaking [studio and frame shop; that the conversion of the non-[conforming gallery-related uses to business or professional [services use would qualify as a permitted conditional use; [that Peer Logic/Critical Path's use does not fit within the [business or professional services definition; that Peer [Logic/Critical Path's activities do not qualify as "business or [professional services" pursuant to Planning Code § [790.108, and that Planning Code §'s 307(a) & 709(d) do [not, in this case, enable him to make an "interpretation" of [the Planning Code that would allow Peer Logic/Critical [Path to occupy the 3rd floor of 292 Ivy Street without [meeting the definition of a use permitted as-of-right or with [conditional use authorization in the Hayes-Gough District, [such as business/professional services.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Cullum, the Board voted 4-1 (President Chin dissented) to overrule the subject determination with findings to be prepared by the appellant's attorney.

SPEAKERS: Larry Badiner, ZA, said that commercial uses in the NCD should serve the surrounding area as set forth in definitions in Planning Code. An internet company will not serve the surrounding area. Their web site indicates it is a global software business and because it has a "waiting area" in the office doesn't make it a neighborhood serving use. Charles Olson, attorney for the Appellant said the opposition is trying to get out of their lease and the determination lays foundations for a nightmare for all the NCD buildings around the City. The Code doesn't mandate neighborhood-serving only. Here the company sells products and is not limited to anyone. The old definition is too narrow today since neighborhood people use the internet. The definition should expand to current reality.

PUBLIC COMMENT FOR ZA: Steve Atkinson, attorney for the Determination Holder said a use should not be allowed in an NC district unless it serves the neighborhood. Because you sell to anybody doesn't make it neighborhood-serving retail. He read dictionary definitions of words. The ZA has the authority to decide uses and he can't ignore the Code when it is clear.

NO PUBLIC COMMENT FOR PARTIES.

(13) **APPEAL NO. 02-002**

PAL SINGH & JOEL HUNT, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent

[50 Mason Street.
[Appealing the revocation on December 19, [2001, of Permit to Alter a Building (change of [use from barber shop to apparel store [including new partitions, display platform, [ventilation, and disabled access upgrades).
[APPLICATION NO. 2001/10/18/1182.
[FOR HEARING TODAY.

ACTION: Upon motion by Vice President McInerney, the Board voted 5-0 to uphold the revocation of the subject permit.

SPEAKERS: Larry Badiner, ZA, explained that the permit was revoked at the request of the Planning Department, because the proposed use appears to be an Adult Entertainment business and it is within 1,000 feet of other Adult Businesses. The permit says it is to be general retail and his staff was mislead and the Planner noted on permit that it was not to be for "adult entertainment". Joe Wood, attorney for appellants, said that his clients had worked without permit improperly. The friend doing the work thought that permits are not need for the interior, non-structural work he was doing and there was no subterfuge here. He described how the location near BART and hotels is expected to generate customers for this retail lingerie shop in which models will stand on a platform, with no chairs or tables, no alcohol, no cubicles or rooms, a small cover charge and security to keep out people 18 or younger. He said his clients have no connection with Chez Paree nearby.

PUBLIC COMMENT FOR ZA: Brad Paul said he can't imagine couples shopping for lingerie here when they can go to Victoria's Secret and other retailers. He said this business sounds like it is a strip club since it has a cover charge, never required for legitimate retail shop. Glenda Hope said the area is saturated with adult entertainment business and twenty-six massage parlors. She asked the Board to not saddle the neighborhood with another adult entertainment business. Brother Kelly Cullen said this is a serious issue and we should follow the law. He said the permit holder has an X-rated business a block away from this site and the law requires a new adult use to be at least 1,000 away from other such uses. Kathleen Mullen said that at the community meeting the appellants couldn't answer questions about the need for a cover charge for the alleged retail shop and the use of models in lingerie makes it an adult entertainment business. Roscoe Hawkins said he has worked in the community for a long time and there are three elementary schools here now. He said the area needs support and uses which have a positive impact.

PUBLIC COMMENT FOR APPELLANTS: Michael Bovo said he is the owner of the abutting building and said that if the proposed business stays within the law it should be allowed to operate.

He intends to lease space to a restaurant. He said that it is a bad area and it is hard to get any tenant. He said the appellants are taking a chance opening any business at all on this site.

(14) **APPEAL NO. 02-005**

STEPHEN & PATRICIA MURPHY, Appellant(s)	[240 San Fernando Way.
vs.	[Protesting issuance on December 21, 2001, to
DEPT. OF BUILDING INSPECTION, Respondent	[David Leigh, Permit to Alter a Building [(vertical and side additions).
PLANNING DEPT. APPROVAL	[APPLICATION NO. 2000/09/25/1401S.
	[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Saunders, the Board voted 5-0 to uphold the subject permit.

SPEAKERS: Steven Murphy, appellant, said he lives across the street and that Balboa Terrace is a planned development built in the 1920's with CC&Rs which run with the land and is bounded by St. Francis Wood and public land. Houses are restricted to two stories only. This proposal will create a bad precedent and should be rejected. The smallest lot will have the biggest house on it with 66% coverage and will be out of character with the neighborhood and in violation with the CC&Rs. David Leigh, permit holder, described the major problems with the foundation that led to the renovation project and the needs of his extended family. He said he has made sixty revisions to meet the requests of the Planning Department and the neighbors, and he asked the Board to uphold his permit which had been approved by the Planning Commission.

PUBLIC COMMENT FOR APPELLANT: Esther K. Penticuff, for the appellant, said she opposes proposal because it will block her sunlight. She added that other neighbors are respectful but not the permit holder.

PUBLIC COMMENT FOR PERMIT HOLDER: Roger Hsu said he has lived in Balboa Terrace fourteen years and supports the plan which was revised many times. Hon Ching said he has eye problems and asked his daughter Becky Chan to read his letter. He described the appellant's efforts to oppose the plan as harassment of the permit holder. Shao Ling Kao said she had not gotten notice of the appellant's plan when he was renovating and she supported permit holder's project.

(15) **SPECIAL ITEMS:**

ITEM A: Proposed Board of Appeals Departmental Budget, fiscal year 2002-2003. For public hearing, consideration and adoption.

ACTION: Upon motion by President Chin, the Board voted 5-0 to approve the proposed budget.

SPEAKERS: No speakers.

ITEM B: Proposed ordinance to delete Code requirement that Board of Appeals appoint an Official Court Reporter to attend meetings. §11 of Part III of the Municipal Code. For public hearing, consideration and adoption today.

MEETING MINUTES, BOARD OF APPEALS, FEBRUARY 20, 2002

ACTION: Adopted 4-0 on motion by President Chin.

SPEAKERS: John Sanger spoke in opposition to the proposed legislation that will delete the Code requirement for an official court reporter to attend all Board meetings since transcripts are essential for appeals of Board actions to court. He feels it is the most efficient way to obtain transcripts.

There being no further business, President Chin adjourned the meeting at 9:30 p.m.

Arnold Y. K. Chin, President

Robert H. Feldman, Executive Secretary

Transcripts of these hearings can be obtained from Easteller Bruihl, the Official Court Reporter, (415) 348-0050.

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S.F. Public Library
Main Branch, 5th Floor
Attn: Terry Gwiazdowsky

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

REGULAR MEETING - WEDNESDAY, FEBRUARY 27, 2002

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

(1) **PUBLIC COMMENT**: At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

(2) **COMMISSIONERS COMMENTS & QUESTIONS**:

(3) **ADDENDUM ITEMS**:

ITEM A: 506 Sanchez Street. Letter from Retts Scauzillo, Requestor, asking that the Board take jurisdiction over Building Permit Application No(s). 2001/11/16/3409. Permit Holder: Cheryl Sena. Project: remove stove and sink, and remove ground floor kitchen. PUBLIC HEARING HELD JAN. 9, 2002. FOR FURTHER CONSIDERATION TODAY.

Date permit issued:	November 16, 2001
Last day to appeal:	December 1, 2001
Jurisdiction request received:	December 24, 2001

ITEM B: 2836 Washington Street. Letter from Rene Peinado, Appellant, requesting rehearing of Appeal No. 01-138, decided Jan. 16, 2002. Upon motion by President Chin, the Board voted 4-1 (Commissioner McInerney dissented) to adopt the Notice of Special Restrictions as amended by President Chin.

ITEM C: 144 Eddy Street. Letter from Andrew Zacks, attorney for appellant Empress LLC, requesting rehearing of Appeal No. 01-082, Empress LLC vs. ZA, decided January 9, 2002. Upon motion by Commissioner Cullum, the Board voted 3-2 (President Chin & Commissioner El Qadah dissented) to uphold the subject determination. Determination Holder: Tenderloin Housing Clinic.

ITEM D: 144 Eddy Street. Proposed findings for Appeal 01-081, West Cork LLC vs. ZA, and Appeal 01-082, Empress LLC vs. ZA, decided Jan. 9, 2002. Upon motion by Commissioner Cullum, the Board voted 3-2 (President Chin & Commissioner El Qadah dissented) to uphold the subject determination. Determination Holder: Tenderloin Housing Clinic. For adoption today.

(4) **APPEAL NO. 01-141**

ESMERALDO NOCON, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[951-957 Mission Street.
[Appealing a Notice of Violation dated August 8
[2001, alleging that the subject property is bein
[used for business or professional offices that d
[not provide on-site services to the general publ
[with out benefit of Conditional Use (CU
[authorization from the Planning Commission,
[violation of Planning Code Section 219(d).
[FOR HEARING TODAY.

(5) **APPEAL NO. 01-159**

EDMUND JUNG, Appellant
vs.
TAXICAB COMMISSION, Respondent

[Appealing the revocation on September 4, 200
[of taxicab medallion no. 842.
[RESOLUTION NO. 2001-53.
[FOR HEARING TODAY.

(6) **APPEAL NO. 01-225**

JIMMY LEE, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING COMMISSION DISAPPROVAL

§ 14 Principals: None.

[2 Upland Drive.
[Appealing a denial, on November 14, 2001,
[Site Permit to Alter a Building (alter front ent
[add vertical story over existing building).
[APPLICATION NO. 2000/12/14/7910S.
[FOR HEARING TODAY.

(7) **APPEAL NO. 01-226**

JOSEPH & GAIL PALAZZOLO, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent

WITHDRAWN

[287 – 31ST Avenue.
[Protesting issuance on November 14, 2001, o
[Randy Brown, Permit to Alter a Build g
[(remodel existing window to French door a d
[conversion of parapet are to deck, as revisio o
[BPA 2000/12/06/7503S).
[APPLICATION NO. 2001/11/14/3109.
[FOR HEARING TODAY.

8) **APPEAL NO. V01-228**

ANTHONY CASTELLUCCI, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[68-72, 74-78 & 70A-76A Waller Street.
[Appealing denial on November 26, 2001, of [Rear Yard, Usable Open Space, Lot Area & [Frontage Requirement Variances (create new [third lot from the rear portions of the two [existing lots).
[VARIANCE CASE NO. 2001.0738V
[FOR HEARING TODAY.

9) **APPEAL NO. 01-232**

JOHN & KAREN DIEFENBACH, & GREG GRETSCH, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[60 Normandie Terrace.
[Appealing a Letter of Determination dated [November 27, 2001, regarding the project [under Building Permit Application No(s). [2000/09/21/1207 (issued to Kim Edwards), that [the proposed alterations do not constitute an [increase in the building envelope, and that the [issues regarding the conformity of the new [construction with the approved drawings must [be addressed by the Dept. of Building [Inspection, and not the Planning Department.
[FOR HEARING TODAY.

10) **APPEAL NO. 01-233**

WILLIAM AUSSERESSES, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[769 North Point Street.
[Appealing denial on December 16, 2001, of [Rear Yard Variance (legalize an existing shed [that was built without a building permit in the [required rear yard).
[VARIANCE CASE NO. 2001.0902V.
[FOR HEARING TODAY.

11) **APPEAL NO. 02-007**

SAN FRANCISCANS FOR REASONABLE GROWTH, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[650 Townsend Street.
[Appealing a determination dated December 31, [2001, issued to ZORO LLC, that under the [Project Authorization granted under Planning [Commission Motion No. 14520, multimedia [uses within the building are not classified as [office space falling within the Office Entitlement [or requiring further approvals as "office space" [under Planning Code §'s 320-325.
[FOR HEARING TODAY.

RESCHEDULED TO 3/6/02

(12) **APPEAL NO. 02-008**

TOUCHSTONE CLIMBING INC., Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING COMMISSION DISAPPROVAL

§ 14 Principals: None.

[2551-2557 Mission Street.
[Appealing the denial on January 4, 2002,
[Permit to Alter a Building (renovation of existir
[theater and establishment of a health fitnes
[facility).
[APPLICATION NO. 2001/06/13/1442S.
[FOR HEARING TODAY.

(13) **APPEAL NO. 02-009**

ANTON YU, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[6324 California Street.
[Protesting issuance on January 2, 2002,
[David Standish, Permit to Erect a Building (fou-
[story three-unit residential condominiu
[building, 40 feet in height, with 1800sf of grou
[floor area).
[APPLICATION NO. 2000/03/30/5890.
[FOR HEARING TODAY.

ADJOURNMENT.

Note: Each item on this agenda may include the following documents:

1. Appellant's statement and rebuttal brief.
2. Permit holder's response and rebuttal brief.
3. Department decision, permit, determination or resolution.
4. Public correspondence.

These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter.

Date posted: Feb. 21, 2002

MEMBERS OF THE BOARD OF APPEALS

ARNOLD Y.K. CHIN	PRESIDENT
JOHN E. MCINERNEY, III	VICE PRESIDENT
CAROLE S. CULLUM	COMMISSIONER
ALLAM M. EL QADAH	COMMISSIONER
SABRINA N. SAUNDERS	COMMISSIONER

EASTELLER BRUIHL - OFFICIAL COURT REPORTER 348-0050

PROCEDURE AT HEARINGS

The order of presentation of an appeal shall be as follows: In the case of appeal of denials, revocations and suspensions the representatives of the department, board, commission or person from whose order the appeal is taken shall speak first and shall be allowed seven minutes for their presentation and three minutes for rebuttal.

The appellant whose permit has been denied, revoked or suspended shall be allowed seven minutes for oral argument and three minutes for rebuttal.

In the case of protest appeals, the protestor shall speak first and shall be allowed seven minutes to present oral argument and three minutes for rebuttal, and the permit holder shall be allowed seven minutes to present oral argument and three minutes for rebuttal. The Board may request a departmental response at its own discretion.

Other persons desiring to speak before the Board on an appeal may speak once for up to three minutes.

SPECIAL NOTES

Mailed notices of public hearings on appeals are sent to all parties at least five days prior to the date of hearing. In the event that a matter is continued to a specific date by the presiding officer and announced to the parties in the hearing room, no additional mailed notice will be sent. Please call the Board office at 575-6880 for scheduling or other information during regular business hours, or visit our website at www.ci.sf.ca.us/bdappeal/index.html.

Briefs are limited to twelve pages, excluding exhibits, which should be tabbed for easy reference.

The complete Rules of the Board are available for review at the Board office.

Material submitted by the public for Board review prior to a scheduled hearing before the Board, should be addressed to Arnold Y.K. Chin, President, and be received at the Board office, 1660 Mission Street, Room 3036, no later than 4:00 p.m. the Thursday (six days) prior to the scheduled public hearing. Persons unable to attend the scheduled public hearing may submit written comments regarding a calendared item to the Board office. Comments received before noon on the day of the hearing will be made a part of the official record and will be brought to the attention of the Board at the public hearing. For complete distribution to all Commissioners of the Board, necessary staff and case files, submit an original and ten copies.

Pursuant to Government Code Section 65009, if you challenge, in court, the approval of a variance or development permit, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Board of Appeals at, or prior to, the public hearing.

Calendared items are sometimes withdrawn or rescheduled to a later date prior to hearing, or are taken out of order to accommodate special needs. The Board urges all parties to be present in the hearing room from 5:00 p.m. so that everyone has an opportunity to participate in the relevant public hearing when it is called.

PROHIBITION OF SOUND-PRODUCING ELECTRONIC DEVICES

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

ACCESSIBILITY INFORMATION

American sign language interpreters and/or sound enhancement system will be available upon request by contacting Catherine Johnson at 575-6882 at least 72 hours prior to the hearing. Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call the accessibility hotline at 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City accommodate these individuals. The closest accessible BART station is the Civic Center station located at the intersection of Market, Hyde and Grove Streets. Accessible curbside parking has been designated at points along McAllister Street. Accessible MUNI lines serving City Hall are the 42 Downtown Loop, 9 San Bruno and 71 Haight/Noriega and the F line. Accessible MUNI Metro lines are the J, K, L, M, and N. For more information regarding MUNI accessible services, call (415) 923-6142.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, council and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force: Donna Hall, Sunshine Ordinance Task Force, City Hall, Room 409, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102-4683, Phone (415) 554-7724, fax (415) 554-7854, and e-mail Donna_Hall@ci.sf.ca.us. Copies of the Sunshine Ordinance can be obtained from the Clerk of the Sunshine Task Force, the San Francisco Public Library, and on the City's website at www.ci.sf.ca.us/bdsupvrs/sunshine.

LOBBYING ACTIVITY

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Campaign and Governmental Conduct Code § 2.100] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415) 581-2300; fax (415) 581-2317; web site www.sfgov.org/ethics.

COMMUNICATIONS

Note: Each item on this agenda may include the following documents:

1. Appellant's statement and rebuttal brief.
2. Permit holder's response and rebuttal brief.
3. Department decision, permit, determination or resolution.
4. Public correspondence.

These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter.

CITY AND COUNTY OF SAN FRANCISCO
Board of Appeals
Robert H. Feldman, Executive Secretary
1660 Mission Street, Room 3036
San Francisco, California 94103
(415) 575-6880

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES - WEDNESDAY, FEBRUARY 27, 2002

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

PRESENT: President Chin, Vice President John McInerney, Commissioner Carole Cullum, Commissioner Allam el Qadah, and Commissioner Sabrina Saunders.

Judith Boyajian, Deputy City Attorney, Office of the City Attorney (DCA, OCA); Larry Badiner, Zoning Administrator, Planing Dept.; Rafael Torres-Gil, Senior Building Inspector, DBI; and Robert Feldman, Executive Secretary for the Board; Official Court Reporter, Easteller Bruihl.

1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

SPEAKERS: Mark Gruberg of the United Taxicab Workers objected to the filing fees required of him to appeal action of the Taxi Commission attaching names of children of deceased medallion holder to medallions.

2) **COMMISSIONERS COMMENTS & QUESTIONS:**

SPEAKERS: None

3) **ADDENDUM ITEMS:**

ITEM A: 506 Sanchez Street. Letter from Retts Scauzillo, Requestor, asking that the Board take jurisdiction over Building Permit Application No(s). 2001/11/16/3409. Permit Holder: Cheryl Sena. Project: remove stove and sink, and remove ground floor kitchen. PUBLIC HEARING HELD JAN. 9, 2002. FOR FURTHER CONSIDERATION TODAY.

Date permit issued:	November 16, 2001
Last day to appeal:	December 1, 2001
Jurisdiction request received:	December 24, 2001

ACTION: This matter was withdrawn by the requestor prior to the hearing.

SPEAKERS: None.

DOCUMENTS DEPT.

MAR 2 8 2002

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MEETING MINUTES, BOARD OF APPEALS, FEBRUARY 27, 2002

ITEM B: 2836 Washington Street. Letter from Rene Peinado, Appellant, requesting rehearing of Appeal No. 01-138, decided December 5, 2001. Upon motion by President Chin, the Board voted 4-1 (Commissioner McInerney dissented) to override the denial by the Planning Commission and grant permit with conditions and NSR. On January 16, 2002, on motion by President Chin, Board voted 4-1 (McInerney dissented) to adopt staff NSR amended by President Chin. On February 11, 2002 Request for Rehearing scheduled for February 27. On February 27 on motion by Vice President Board voted 5-0 to grant scheduled hearing April 17, 2002.

SPEAKERS: Bryan Raisch, attorney for Rene Peinado, appellant, said that the Board was limited to a decision on the parapet and otherwise these decks can be used as shown on original approval plans, but the proposed Notice of Special Restrictions wouldn't allow that. He feels a rehearing would allow time for these issues to be clarified and for a new NSR to be drafted that is appropriate for the case. Craig Nikitas for the ZA said the Department has no objection to a rehearing.

ITEM C: 144 Eddy Street. Letter from Andrew Zacks, attorney for appellant Empress LLC, requesting rehearing of Appeal No. 01-082, Empress LLC vs. ZA, decided January 9, 2002. Upon motion by Commissioner Cullum, the Board voted 3-2 (President Chin & Commissioner El Qadah dissented) to uphold the subject determination. Determination Holder: Tenderloin Housing Clinic.

ACTION: Upon motion by Commissioner McInerney, the Board voted 3-2 (Commissioners Cullum and Saunders dissented) to grant the rehearing request. Four votes being necessary to grant a rehearing request, the motion failed. Then, upon motion by Commissioner McInerney, the Board voted 5-0 to rescind the previous vote. Afterwards, upon motion by Commissioner Cullum, the Board voted 5-0 to continue the rehearing request to April 17, 2002.

SPEAKERS: Andrew Zacks, attorney for the appellant said after the Board's decision he learned of a similar hotel nearby which operates as a tourist hotel under similar facts and feels his client has not been treated fairly. He expects a new determination from the ZA which may be appealed and could be heard with this case. The owner of the other hotel is a prominent real estate businessman. Craig Nikitis for the ZA said that a determination regarding the hotel at 25 Mason Street is being researched and will be issued soon. Randy Shaw for the Tenderloin Housing Clinic said there are no new facts and the rehearing request should be denied. An argument concerning another hotel is irrelevant. Judith Boyijian, Deputy City Attorney, in answer to a Board question said that if a motion fails that a member on the prevailing side can make a motion to rescind and if passed, a new motion can be made to continue the matter to a later date.

ITEM D: 144 Eddy Street. Proposed findings for Appeal 01-081, West Cork LLC vs. ZA, and Appeal 01-082, Empress LLC vs. ZA, decided Jan. 9, 2002. Upon motion by Commissioner Cullum, the Board voted 3-2 (President Chin & Commissioner El Qadah dissented) to uphold the subject determination. Determination Holder: Tenderloin Housing Clinic. For adoption today.

ACTION: Upon motion by President Chin, the Board voted 5-0 to continue the matter to April 17, 2002.

SPEAKERS: None

MEETING MINUTES, BOARD OF APPEALS, FEBRUARY 27, 2002

4) **APPEAL NO. 01-141**

ESMERALDO NOCON, Appellant
vs.
ZONING ADMINISTRATOR, Respondent

[951-957 Mission Street.
[Appealing a Notice of Violation dated August 8, [2001, alleging that the subject property is being [used for business or professional offices that do [not provide on-site services to the general public [with out benefit of Conditional Use (CU) [authorization from the Planning Commission, in [violation of Planning Code Section 219(d).
[FOR HEARING TODAY.

ACTION: Withdrawn by the appellant at hearing.

SPEAKERS: David Silverman attorney for the appellant reported that the matter has been settled and his client withdraws the appeal.

5) **APPEAL NO. 01-159**

EDMUND JUNG, Appellant
vs.
TAXICAB COMMISSION, Respondent

[Appealing the revocation on September 4, 2001, [of taxicab medallion No. 842.
[RESOLUTION NO. 2001-53.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Cullum, the Board voted 5-0 to overrule the Taxi Commission's revocation and suspend the subject medallion for a period of 6-months with the following CONDITIONS(S): a) that the appellant complete the full-time driving requirement (using his regular taxi permit/driver of public passenger vehicle permit) including completion of waybills; b) that at the end of the 6-month suspension the appellant must provide to the Taxi Detail of the Police Department a certificate of medical eligibility to drive from Dr. Norman Shapiro or a similarly experienced disability physician, which should include a report on the appellant's vision; c) that the appellant provide to the Taxi Detail copies of all medical records, reports and other documents which reflect treatment and visits to medical providers within 10 days after each said visit or treatment; d) and that the appellant provide new medical reports concerning his vision and neurological status every 6-months to the Taxi Detail for a period of 2-years.

SPEAKERS: Paul Zarefsky, Deputy City Attorney for the Taxi Commission explained the appellant's failure to meet the driving requirements for medallion holders and asked the Board to uphold the action of the Commission to protect citizens and the appellant who has driven in the past while he had double vision, endangering himself, passengers and the public; and he had several citations for moving violations. He described the Commission's efforts in developing guidelines and procedures to handle ADA claims and disciplinary matters. John Prentiss, attorney for the Appellant, described the appellant's long career as a driver of public vehicles, having originated the motorized rickshaw business and driven a taxi for forty years, since 1954. Dr. Norman Shapiro testified as to the Appellant's medical history and said he is presently driving and is medically fit to continue driving. Richard Hybels, general manager of the cab company which leases the Appellant's medallion said the Appellant drives a taxi with no complaints from the public. James Nakamura, for the Appellant said that the Appellant is a member of his group, went over the

Appellant's history as a driver and medallion holder and said it would be wrong to revoke the medallion of so dedicated a driver and unfair to him as a minority, reminding the Board that driver's are not employees with worker's compensation insurance but independent contractors who must insure themselves at great expense. Mark Gruberg, UTW, said for once he was opposed to a revocation and that this case is a murky situation and he suggested the Board reduce the revocation to a suspension for a year and require all regulations to be followed and waybills be submitted along with a DMV report on his driving record. Carl Macmurdo for the Appellant, said he feels that there is no driving requirement for medallion holders under the law since it says they declare their intention to drive only. He said that the Commission adopted a draconian template for discipline last night. Johnson Akinbodunse, for the Appellant said that there was no provision in Prop K for those who could not do the job and that the Appellant has driven successfully for forty years in the City.

NO PUBLIC COMMENT FOR TAXI COMMISSION.

(6) **APPEAL NO. 01-225**

JIMMY LEE, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING COMMISSION DISAPPROVAL

[2 Upland Drive.
[Appealing a denial, on November 14, 2001, of
[Site Permit to Alter a Building (alter front entry,
[add vertical story over existing building).
[APPLICATION NO. 2000/12/14/7910S.
[FOR HEARING TODAY.

§ 14 Principals: None.

ACTION: This matter was rescheduled to April 17, 2002 prior to hearing.

SPEAKERS: None

(7) **APPEAL NO. 01-226**

JOSEPH & GAIL PALAZZOLO, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent

[287 – 31ST Avenue.
[Protesting issuance on November 14, 2001, to
[Randy Brown, Permit to Alter a Building
[(remodel existing window to French door and
[conversion of parapet are to deck, as revision to
[BPA 2000/12/06/7503S).
[APPLICATION NO. 2001/11/14/3109.
[FOR HEARING TODAY.

ACTION: Withdrawn by the appellant.

SPEAKERS: None

MEETING MINUTES, BOARD OF APPEALS, FEBRUARY 27, 2002

(8) **APPEAL NO. V01-228**

ANTHONY CASTELLUCCI, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[68-72, 74-78 & 70A-76A Waller Street.
[Appealing denial on November 26, 2001, of [Rear Yard, Usable Open Space, Lot Area & [Frontage Requirement Variances (create new [third lot from the rear portions of the two [existing lots).
[VARIANCE CASE NO. 2001.0738V
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Cullum, the Board voted 5-0 to continue the matter to April 24, 2002.

SPEAKERS: Craig Nikitis for the ZA explained that the application is to create two new lots and that it did not meet the five requirements set forth in the Code or Section 101.1, the Prop. M priority policies because granting it will lead to the loss of affordable housing. William Walters, architect for the appellant, said that his client had recently bought the lots and that the application does meet the five requirements and that the affordable housing issue is just speculative and doesn't justify denial. He noted that the owner owns several properties and has no history of eviction though the tenants are worried.

NO PUBLIC COMMENT FOR EITHER SIDE.

(9) **APPEAL NO. 01-232**

JOHN & KAREN DIEFENBACH, & GREG GRETSCH, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[60 Normandie Terrace.
[Appealing a Letter of Determination dated [November 27, 2001, regarding the project [under Building Permit Application No(s). [2000/09/21/1207 (issued to Kim Edwards), that [the proposed alterations do not constitute an [increase in the building envelope, and that the [issues regarding the conformity of the new [construction with the approved drawings must [be addressed by the Dept. of Building [Inspection, and not the Planning Department.
[FOR HEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted 4-0 to recuse Commissioner McInerney. Afterwards, upon motion by Commissioner Cullum, the Board voted 4-0-1 (Commissioner McInerney recused) to uphold the subject determination.

SPEAKERS: Craig Nikitis for the ZA said the notification had been correct and there had been no mistake in approval or in compliance with the approved plans. Jeffrey Gibson, attorney for the appellants said that the ZA had erred in taking no action when presented with evidence the house has been enlarged beyond the approved plans and among other improper charges the barbeque area has been enclosed and the ceiling heights have increased. Clients didn't act earlier because they only become aware of problem after construction began. David Silverman, attorney for the

permit holder, said that the building envelope is measured on the exterior only and the ceiling heights of rooms are irrelevant, since these are interior dimensions and the height of the house is as on the approved plans. He said this appeal was not timely and these issues should have been raised during the DR process but no one requested it.

10) **APPEAL NO. 01-233**

WILLIAM AUSSERESSES, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[769 North Point Street.
[Appealing denial on December 16, 2001, of [Rear Yard Variance (legalize an existing shed [that was built without a building permit in the [required rear yard).
[VARIANCE CASE NO. 2001.0902V.
[FOR HEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted 4-0-1 (Commissioner Saunders absent) to uphold the denial of the subject variance.

SPEAKERS Craig Nikitis said the project violates the Code and the Residential Design Guidelines. There is no evidence that the shed has been there for very long and he submitted aerial photos and Sanborn maps that show no shed in the rear year.

The appellant made no appearance.

Jeremy Paul asked the Board to uphold the Department's decision because the matter has been on hold at DBI for years and the Appellant has amazingly avoided DNBI enforcement, but the shed needs to be torn down.

11) **APPEAL NO. 02-007**

SAN FRANCISCANS
FOR REASONABLE GROWTH, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[650 Townsend Street.
[Appealing a determination dated December 31, [2001, issued to ZORO LLC, that under the [Project Authorization granted under Planning [Commission Motion No. 14520, multimedia [uses within the building are not classified as [office space falling within the Office Entitlement [or requiring further approvals as "office space" [under Planning Code §'s 320-325.
[FOR HEARING TODAY.

ACTION: This matter was rescheduled to March 6, 2002 prior to hearing.

SPEAKERS: None

(12) **APPEAL NO. 02-008**

TOUCHSTONE CLIMBING INC., Appellant(s)	[2551-2557 Mission Street.
vs.	[Appealing the denial on January 4, 2002, of
DEPT. OF BUILDING INSPECTION,	[Permit to Alter a Building (renovation of existing
Respondent	[theater and establishment of a health fitness
PLANNING COMMISSION DISAPPROVAL	[facility).
	[APPLICATION NO. 2001/06/13/1442S.
§ 14 Principals: None.	[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner El Qadah, the Board voted 5-0 to overrule the denial and grant the subject permit with adoption of the Notice of Special Restrictions (NSR) as recommended by Planning Staff.

SPEAKERS: Craig Nikitis for the ZA explained that the Commission denied the permit because they felt the price structure is too high for the residents of the Mission District and therefore the proposed use is out of character with the neighborhood and not a neighborhood-serving business. Ben Sarnoff, attorney for the Appellants, said the appeal is from a mandatory DR decision and that the proposal is for a full service health club that will be neighborhood serving. He said the price structure was not justification to deny the application and the proposal would result in renovation and use of a neglected vacant property that is an eyesore and harbors drug dealers.

PUBLIC COMMENT FOR COMMISSION: Luis Granados of MEDA asked the Board to deny or stay the permit until the Mission Interim Controls go into effect. The proposal is a high-end and high-concept business with its fees twice as high as other health clubs. Most people in the Mission won't be able to afford it. It would get rid of two storefronts. The owners of the building have evicted 26 non-profits from the building. Myriam Zamora, translated from Spanish by Richard Marquez. She works for the community. Appellants didn't attend their community meeting. What will they do with the profits? Anna Lovo, also translated by Richard Marquez, said that we are low income and can't utilize this proposed health center. The money they are investing in the business they should use differently. The Mission has been affected greatly by displacement. Christy Seliz from MAC, which is going through a community planning project and the eastern neighborhoods have the largest percentage of workers in the City and the Mission is a Latino neighborhood. Health clubs are inherently not neighborhood businesses. The climbing feature of this one is for people from out of the area. Richard Marquez, speaking for himself, said that there is wide opposition to the proposal. He asked the Board to give voters a reason to disapprove Prop. D. He offered the Board a list of conditions that could be imposed if the proposal is approved.

PUBLIC COMMENT FOR THE APPELLANTS: Judy West said she lives two blocks from the site and the proposed facility will bring up-scale people into the area. She said the climbing gym is breath-taking and will be an inspiration for the neighborhood. Guillermo Torres said he supports the project because it will be of benefit to youth and will help combat drugs by providing good recreational opportunities for them. He is a climber himself. Mr. Jesus Barrera said he doesn't like much in the Mission like the porno businesses and he needs a place to box and the gym on Harrison Street is too crowded. Nancy Kahn said she is a youth advocate and that the owners have shown themselves to be an honorable organization by supporting sixty groups in the City. The facility will help build self-esteem of youth and it would be a travesty to disapprove the permit. Robert Cooley of the Mission Merchants Association said his board had voted 9-3 in favor of this project which will upgrade an eyesore and the merchants and the youth will benefit from it. Ira

Victor of the MMA said the vote would have been 10-3 if he had been at the meeting. The site has been vacant for 10-15 years and now shelters drug dealers under the marquee. The project will cause no displacement and he feels MEDA has a vendetta against the owners of the property. Kirk Scott said he is a climber and a product of climbing in his youth. Climbers often become conservationists and the facility will provide wholesome opportunities for local youth. Toby Levine said she had long experience in this neighborhood as a resident and a teacher and she feels this climbing-health club facility will have a very positive effect on the Mission District.

(13) **APPEAL NO. 02-009**

ANTON YU, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[6324 California Street.
[Protesting issuance on January 2, 2002, to
[David Standish, Permit to Erect a Building (four-
[story three-unit residential condominium
[building, 40 feet in height, with 1800sf of ground
[floor area).
[APPLICATION NO. 2000/03/30/5890.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner El Qadah, the Board voted 5-0 to uphold the subject permit on condition that white reflective paint be used on both light wells facing the appellant's property.

SPEAKERS: Anton Yu, appellant, said he is not against the proposed building but wanted revisions to the plans to enlarge the lightwells so they line up and to increase the setback of the penthouse. David Standish, the permit holder, said he had reached an agreement with the appellant's family in good faith and they had withdrawn their DR request and now the appellant wants to renegotiate the agreement and have a greater setback for the penthouse. He said his project meets the Residential Design Guidelines and was properly approved and issued and he asks that it be upheld by the Board. Gabriel Ng, architect for the project described his attempts to consult with the appellant and said the lightwell is a new issue never before discussed by the parties. Craig Nikitis for the ZA described the revisions agreed to at the Commissions DR hearing.

NO PUBLIC COMMENT FOR EITHER SIDE.

There being no further business, President Chin adjourned the meeting at 9:27.

Arnold Y. K. Chin, President

Robert H. Feldman, Executive Secretary

Transcripts of these hearings can be obtained from Easteller Bruihl, the Official Court Reporter.
(415) 348-0050

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Main Branch, 5th Floor
Attn: Terry Gwiazdowsky

BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

REGULAR MEETING - WEDNESDAY, MARCH 6, 2002

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

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(2) **COMMISSIONERS COMMENTS & QUESTIONS:**

(3) **ADDENDUM ITEMS:**

03-11-02A11:14 RCVD

ITEM A: 176 Clipper Street. Letter from Jerry McDonald, Appellant, requesting rehearing of Appeal 01-188, McDonald vs. DBI, PDA, decided January 16, 2002. Upon motion by President Chin, the Board voted 5-0 to uphold the subject permit on condition that the overhang be allowed, and on condition that the subject windows be changed from obscured glass to clear glass. Permit Holder(s): Laurie Bell. Project: 3 story rear addition including art studio on first floor; kitchen, family room, bath on second; master bedroom/bath/closet on third; mezzanine study over master bedroom; new deck and stairs to grade; demolish existing rear portion of house for addition; roof deck over existing roof.

ITEM B: 1479 – 3rd Avenue. Letter from Larry Badiner, Zoning Administrator, requesting rehearing of Appeal 01-196, Wydler vs. ZA, decided Jan. 30, 2002. Upon motion by Vice President McInerney, the Board voted 4-0-1 (Commissioner Saunders absent) to overrule the subject determination and to adopt the findings submitted by the appellant's attorney. Appellant: Aton Wydler. Determination: that use of the subject property as a 4-unit residential building is not permitted under the Planning Code, and is not considered to be a legal non-conforming use under Planning Code Sections 180 through 185.

(4) **APPEAL NO. 01-175**

JACKIE HOLLAND, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[271 Cumberland Street #5.
[Protesting issuance on September 24, 2001, t
[Chuck Louden, Permit to Alter a Buildin
[(comply with NOV, replacement roof deck, 2X
[sleepers on asphalt roof (legalize existin
[deck)).
[APPLICATION NO. 2001/09/24/9018.
[FOR HEARING TODAY.

(5) **APPEAL NO. 01-134**

FRANK S. DUARTE, JR., Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent

[1196 Hampshire Street.
[Protesting issuance on August 13, 2001,
[William Sorenson & James Cline, Permit
[Alter A Building (complete work started und
Building Permit Application Nos. 9912409 a
[2000/08/17/8163, correct estimated cost a
[comply with Notice of Violation).
[APPLICATION NO. 2001/08/13/5945.
[ORIGINAL HEARING OCT. 3, 2001 (PERM
[UPHELD).
[REQUEST FOR REHEARING GRANTED T
[LAURENCE KORNFIELD NOV. 7, 2001.
[FOR REHEARING TODAY.

(6) **APPEAL NO. 01-243**

ANDREW & STACEY
FROST, ROBERT & MARIAN
HEATH, KAREN LARSEN, MICHAEL
SHANE, RONNA STONE, TIMOTHY
SMITH, VERNE & ROBERT DOXEY,
DAVID IRWIN, SUSAN GAMBLE,
DEBORAH & H. BOYD SEYMOUR,
and NANCY & ROGER BOAS, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[3352 Washington Street.
[Appealing a determination dated Decembe
[17, 2001, addressed to Alice Barkley, that th
[proposed roof structure on the subjec
[property is a dormer and that it complies wit
[Planning Code § 261 in terms of are
[limitation requirements for permitte
[exceptions, and that the proposed roof heigh
[is code complying.
[FOR HEARING TODAY.

(7) **APPEAL NO. V02-011**

DIAMOND HEIGHTS COMMUNITY ASSOCIATION, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[47-75 Topaz Way.
[Protesting the granting on January 11, 2002, [to the Topaz Way Homeowner's Association, [of Rear Yard Variance (subdivide an existing [30,024sf lot into two separate lots).
[VARIANCE CASE NO. 2001.0941V.
[FOR HEARING TODAY.

(8) **APPEAL NO. 01-238**

ERIK VON MULLER & PETER FRY, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[4733 – 18th Street.
[Appealing a Determination dated December 13, [2001 that Building Permit Application No(s). [2000/12/20/8359 be suspended, and that all [work already completed but not conforming to [that shown on the plans for Site Permit [Addendum No(s). 9817703/S-1 be removed by [the project sponsor.
[PUBLIC HEARING HELD & CLOSED FEB. 6, [2002.
[FOR FURTHER CONSIDERATION TODAY.

(9) **APPEAL NO. 02-007**

SAN FRANCISCANS FOR REASONABLE GROWTH, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[650 Townsend Street.
[Appealing a determination dated December 31, [2001, issued to ZORO LLC, that under the [Project Authorization granted under Planning [Commission Motion No. 14520, multimedia [uses within the building are not classified as [office space falling within the Office Entitlement [or requiring further approvals as "office space" [under Planning Code §'s 320-325.
[FOR HEARING TODAY.

DJOURNMENT.

ote: Each item on this agenda may include the following documents:

1. Appellant's statement and rebuttal brief.
2. Permit holder's response and rebuttal brief.
3. Department decision, permit, determination or resolution.
4. Public correspondence.

hese items are available for review at the Board's office, 1660 Mission Street, Room 3036, front ounter.

ate posted: Feb. 28, 2002

MEMBERS OF THE BOARD OF APPEALS

ARNOLD Y.K. CHIN	PRESIDENT
JOHN E. MCINERNEY, III	VICE PRESIDENT
CAROLE S. CULLUM	COMMISSIONER
ALLAM M. EL QADAH	COMMISSIONER
SABRINA N. SAUNDERS	COMMISSIONER

EASTELLER BRUIHL - OFFICIAL COURT REPORTER 348-0050

PROCEDURE AT HEARINGS

The order of presentation of an appeal shall be as follows: In the case of appeal of denials, revocations and suspensions the representatives of the department, board, commission or person from whose order the appeal is taken shall speak first and shall be allowed seven minutes for their presentation and three minutes for rebuttal.

The appellant whose permit has been denied, revoked or suspended shall be allowed seven minutes for oral argument and three minutes for rebuttal.

In the case of protest appeals, the protestor shall speak first and shall be allowed seven minutes to present oral argument and three minutes for rebuttal, and the permit holder shall be allowed seven minutes to present oral argument and three minutes for rebuttal. The Board may request a departmental response at its own discretion.

Other persons desiring to speak before the Board on an appeal may speak once for up to three minutes.

SPECIAL NOTES

Mailed notices of public hearings on appeals are sent to all parties at least five days prior to the date of hearing. In the event that a matter is continued to a specific date by the presiding officer and announced to the parties in the hearing room, no additional mailed notice will be sent. Please call the Board office at 575-6880 for scheduling or other information during regular business hours, or visit our website at www.ci.sf.ca.us/bdappeal/index.html.

Briefs are limited to twelve pages, excluding exhibits, which should be tabbed for easy reference.

The complete Rules of the Board are available for review at the Board office.

Material submitted by the public for Board review prior to a scheduled hearing before the Board, should be addressed to Arnold Y.K. Chin, President, and be received at the Board office, 1660 Mission Street, Room 3036, no later than 4:00 p.m. the Thursday (six days) prior to the scheduled public hearing. Persons unable to attend the scheduled public hearing may submit written comments regarding a calendared item to the Board office. Comments received before noon on the day of the hearing will be made a part of the official record and will be brought to the attention of the Board at the public hearing. For complete distribution to all Commissioners of the Board, necessary staff and case files, submit an original and ten copies.

Pursuant to Government Code Section 65009, if you challenge, in court, the approval of a variance or development permit, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Board of Appeals at, or prior to, the public hearing.

Calendared items are sometimes withdrawn or rescheduled to a later date prior to hearing, or are taken out of order to accommodate special needs. The Board urges all parties to be present in the hearing room from 5:00 p.m. so that everyone has an opportunity to participate in the relevant public hearing when it is called.

PROHIBITION OF SOUND-PRODUCING ELECTRONIC DEVICES

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

ACCESSIBILITY INFORMATION

American sign language interpreters and/or sound enhancement system will be available upon request by contacting Catherine Johnson at 575-6882 at least 72 hours prior to the hearing. Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call the accessibility hotline at 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals. The closest accessible BART station is the Civic Center station located at the intersection of Market, Hyde and Grove Streets. Accessible curbside parking has been designated at points along McAllister Street. Accessible MUNI lines serving City Hall are the 42 Downtown Loop, 9 San Bruno and 71 Haight/Noriega and the F line. Accessible MUNI Metro lines are the J, K, L, M, and N. For more information regarding MUNI accessible services, call (415) 923-6142.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force: Donna Hall, Sunshine Ordinance Task Force, City Hall, Room 409, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102-4683, Phone (415) 554-7724, fax (415) 554-7854, and e-mail Donna_Hall@ci.sf.ca.us. Copies of the Sunshine Ordinance can be obtained from the Clerk of the Sunshine Task Force, the San Francisco Public Library, and on the City's website at www.ci.sf.ca.us/bdsupvrs/sunshine.

LOBBYING ACTIVITY

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Campaign and Governmental Conduct Code § 2.100] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415) 581-2300; fax (415) 581-2317; web site www.sfgov.org/ethics.

COMMUNICATIONS

Note: Each item on this agenda may include the following documents:

1. Appellant's statement and rebuttal brief.
2. Permit holder's response and rebuttal brief.
3. Department decision, permit, determination or resolution.
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These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter.

CITY AND COUNTY OF SAN FRANCISCO
Board of Appeals
Robert H. Feldman, Executive Secretary
1660 Mission Street, Room 3036
San Francisco, California 94103
(415) 575-6880

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES - WEDNESDAY, MARCH 6, 2002

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

PRESENT: President Chin, Vice President John McInerney, Commissioner Carole Cullum, Commissioner Allam el Qadah.

Judith Boyajian, Deputy City Attorney for the City Attorney (DCA); Larry Badiner, Zoning Administrator, Planning Department; Rafael Torres-Gil, Senior Building Inspector, DBI; and Robert Feldman, Executive Secretary for the Board of Appeals; Official Court Reporter, Easteller Bruihl.

ABSENT: Commissioner Sabrina Saunders.

(1) **PUBLIC COMMENT**: At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

SPEAKERS: None

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(2) **COMMISSIONERS COMMENTS & QUESTIONS**:

SPEAKERS: None

(3) **ADDENDUM ITEMS**:

ITEM A: 176 Clipper Street. Letter from Jerry McDonald, Appellant, requesting rehearing of Appeal 01-188, McDonald vs. DBI, PDA, decided January 16, 2002. Upon motion by President Chin, the Board voted 5-0 to uphold the subject permit on condition that the overhang be allowed, and on condition that the subject windows be changed from obscured glass to clear glass. Permit Holder: Laurie Bell. Project: 3 story rear addition including art studio on first floor; kitchen, family room, bath on second; master bedroom/bath/closet on third; mezzanine study over master bedroom; new deck and stairs to grade; demolish existing rear portion of house for addition; roof deck over existing roof.

ACTION: Upon motion by Vice President McInerney, the Board voted 4-0-1 (Commissioner Saunders absent) to deny the rehearing request.

SPEAKERS: Jerry McDonald, requestor of rehearing said he could offer new documents which would constitute grounds for the granting of a rehearing. He has a letter from Richard Parker analyzing the relevant portions of the Planning Code. Also, he has measured the building and his measurements show that the permit holder's plans are inaccurate and are eight inches off. The length is 63' 3". He has checked the dimensions and can show that the permit holder's architect is wrong. Jerome Altman, project architect, said that a rehearing is not justified since all of the issues were thoroughly discussed at the hearing, and there is no new information being offered. He has triple checked the dimensions and feels that they are accurate.

ITEM B: 1479 – 3rd Avenue. Letter from Larry Badiner, Zoning Administrator, requesting rehearing of Appeal 01-196, Wydler vs. ZA, decided Jan. 30, 2002. Upon motion by Vice President McInerney, the Board voted 4-0-1 (Commissioner Saunders absent) to overrule the subject determination and to adopt the findings submitted by the appellant's attorney. Appellant: Aton Wydler. Determination: that use of the subject property as a 4-unit residential building is not permitted under the Planning Code, and is not considered to be a legal non-conforming use under Planning Code Sections 180 through 185.

ACTION: Upon motion by Vice President McInerney, the Board voted 4-0-1 (Commissioner Saunders absent) to reschedule this request to May 15, 2002.

SPEAKERS: Larry Badiner, ZA, said he and attorney David Cincotta have agreed to continue the matter and that it may be that the subject building was constructed as a rooming house.

(4) **APPEAL NO. 01-175**

JACKIE HOLLAND, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[271 Cumberland Street #5.
[Protesting issuance on September 24, 2001, to
[Chuck Louden, Permit to Alter a Building
[(comply with NOV, replacement roof deck, 2X4
[sleepers on asphalt roof (legalize existing
[deck)).
[APPLICATION NO. 2001/09/24/9018.
[FOR HEARING TODAY.

ACTION: This matter was rescheduled to May 15, 2002 prior to hearing.

(5) **APPEAL NO. 01-134**

FRANK S. DUARTE, JR., Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent

[1196 Hampshire Street.
[Protesting issuance on August 13, 2001, to
[William Sorenson & James Cline, Permit to
[Alter A Building (complete work started under
Building Permit Application Nos. 9912409 and
[2000/08/17/8163, correct estimated cost and
[comply with Notice of Violation).
[APPLICATION NO. 2001/08/13/5945.

[ORIGINAL HEARING OCT. 3, 2001 (PERMIT
[UPHELD).
[REQUEST FOR REHEARING GRANTED TO
[LAURENCE KORNFIELD NOV. 7, 2001.
[FOR REHEARING TODAY.

ACTION: Upon motion by Commissioner Cullum, the Board voted 4-0-1 (Commissioner Saunders absent) to revoke the subject permit.

SPEAKERS: Larry Badiner, ZA, said that he and Laurence Kornfield both thought there had been an illegal demolition. He has granted a rear yard variance to allow building in the required rear yard and the variance was not appealed to this Board. Laurence Kornfield, CBI, DBI said that now the project sponsors must file applications for a demolition permit and for a new construction permit. Mr. Badiner said that the case is now moot. Mr. Kornfield explained the civil penalties for demolishing a non-residential building without a demolition permit and characterized them as minor. Frank Duarte Jr., the appellant, said that he feels the project still violates Section 134 of the Planning Code concerning rear yard requirements. Also he feels it violates Section 188c2 regarding the rebuilding of non-complying structures within one year, and now one and three quarters years have elapsed. David Levy, attorney for project sponsors said he agrees with the ZA that this case is now moot, since the variance was granted. He said the demolition of the shed was unintentional.

NO PUBLIC COMMENT FOR EITHER SIDE.

Bill Sorenson, co-permit holder, said that many electrical outlets are needed in the proposed music studio because he uses a great deal of electronic equipment for teaching and recording. He works with disabled people.

(6) **APPEAL NO. 01-243**

ANDREW & STACEY
FROST, ROBERT & MARIAN
HEATH, KAREN LARSEN, MICHAEL
SHANE, RONNA STONE, TIMOTHY
SMITH, VERNE & ROBERT DOXEY,
DAVID IRWIN, SUSAN GAMBLE,
DEBORAH & H. BOYD SEYMOUR,
and NANCY & ROGER BOAS, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[3352 Washington Street.
[Appealing a determination dated December
[17, 2001, addressed to Alice Barkley, that the
[proposed roof structure on the subject
[property is a dormer and that it complies with
[Planning Code § 261 in terms of area
[limitation requirements for permitted
[exceptions, and that the proposed roof height
[is code complying.
[FOR HEARING TODAY.

ACTION: Upon motion by Vice President McInerney, the Board voted 4-0-1 (Commissioner Saunders absent) to reschedule the matter to April 17, 2002.

SPEAKERS: Alice Barkley, attorney for appellants asked for a continuance to a meeting with all five members present. David Silverman, attorney for the permit applicant, said he agrees to a continuance but only to the first possible date with five members.

MEETING MINUTES, BOARD OF APPEALS, MARCH 6, 2002

(7) **APPEAL NO. V02-011**

DIAMOND HEIGHTS COMMUNITY ASSOCIATION, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[47-75 Topaz Way.
[Protesting the granting on January 11, 2002, [to the Topaz Way Homeowner's Association, [of Rear Yard Variance (subdivide an existing [30,024sf lot into two separate lots).
[VARIANCE CASE NO. 2001.0941V.
[FOR HEARING TODAY.

ACTION: This matter was rescheduled to April 17, 2002 prior to hearing.

(8) **APPEAL NO. 01-238**

ERIK VON MULLER & PETER FRY, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[4733 – 18th Street.
[Appealing a Determination dated December 13, [2001 that Building Permit Application No(s). [2000/12/20/8359 be suspended, and that all [work already completed but not conforming to [that shown on the plans for Site Permit [Addendum No(s). 9817703/S-1 be removed by [the project sponsor.
[PUBLIC HEARING HELD & CLOSED FEB. 6, [2002.
[FOR FURTHER CONSIDERATION TODAY.

ACTION: Upon motion by Vice President McInerney, the Board voted 4-0-1 (Commissioner Saunders absent) to continue the matter to April 17, 2002.

SPEAKERS: Laurence Kornfield, CBI, DBI, reported on the site visit to see roof hatches and said he is not prepared to evaluate the proposal until he discusses the matter with the Director. The building visited on Haight Street has hatches for each individual unit which do not provide a required second means of egress for emergencies. They are just amenities. This is not a Fire Code issue. He said that it appears it is leading to a resolution of the problem. Alice Barkley, attorney for permit holders, said that work continues on the house except for the penthouse, the subject of the appeal.

(9) **APPEAL NO. 02-007**

SAN FRANCISCANS FOR REASONABLE GROWTH, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[650 Townsend Street.
[Appealing a determination dated December 31, [2001, issued to ZORO LLC, that under the [Project Authorization granted under Planning [Commission Motion No. 14520, multimedia [uses within the building are not classified as [office space falling within the Office Entitlement [or requiring further approvals as "office space" [under Planning Code §'s 320-325.
[FOR HEARING TODAY.

MEETING MINUTES, BOARD OF APPEALS, MARCH 6, 2002

ACTION: Upon motion by Commissioner Cullum, the Board voted 4-0-1 (Commissioner Saunders absent) to uphold the subject determination.

SPEAKERS: Marcia Smolens, speaking for the owners, said that she felt the appeal should not be continued again since the appellant has not filed a brief and, while she is sympathetic to the appellant's medical situation, she asked that in light of many delays suffered already by her client, that the Board should go forward with the hearing. The appellant did not appear. No public comment for either side. The Executive Secretary reported that the appellant had telephoned the office at 4:00 p.m. to say she was ill and couldn't attend the hearing.

There being no further business, Commissioner Chin adjourned the meeting at 6:11 p.m.

Arnold Y. K. Chin, President

Robert H. Feldman, Executive Secretary

Transcripts of these hearings can be obtained from Easteller Bruihl, the Official Court Reporter. Telephone 576-0700.

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Main Branch, 5th Floor
Attn: Terry Gwiazdowsky

BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

REGULAR MEETING - WEDNESDAY, MARCH 13, 2002

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

30
2
3/13/02

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

(2) **COMMISSIONERS COMMENTS & QUESTIONS:**

(3) **ADDENDUM ITEMS:** None.

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03-11-02A11:14 RCVD

ITEMS (4A) & (4B) SHALL BE HEARD TOGETHER:

(4A) **APPEAL NO. 01-039**

RICK HOLMAN, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPARTMENT APPROVAL

[445 Bryant Street.
[Protesting issuance on January 29, 2001, to [Armax, Inc., Permit to Demolish a Building [(office building).
[APPLICATION NO. 9912958.
[FOR HEARING TODAY.

(4B) **APPEAL NO. 01-040**

RICK HOLMAN, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPARTMENT APPROVAL

[445 Bryant Street.
[Protesting issuance on January 29, 2001, to [Armax, Inc., Site Permit to Erect a Building [(eight live/work units).
[APPLICATION NO. 2000/09/15/7935S.
[FOR HEARING TODAY.

(5) **APPEAL NO. 01-222**

BRENDAN LALOR, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING COMMISSION DISAPPROVAL

§ 14 Principals: SHUI HUNG & SO CHUN LEE

[1117 Judah Street.
[Appealing denial on November 20, 2001, of
[Site Permit to Erect a Building (four-story, two-
[unit residential building with 1,575sf of ground
[floor area).
[APPLICATION NO. 2000/10/16/3112S
[FOR HEARING TODAY.

ADJOURNMENT.

Note: Each item on this agenda may include the following documents:

1. Appellant's statement and rebuttal brief.
2. Permit holder's response and rebuttal brief.
3. Department decision, permit, determination or resolution.
4. Public correspondence.

These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter.

Date posted: March 7, 2002

MEMBERS OF THE BOARD OF APPEALS

ARNOLD Y.K. CHIN	PRESIDENT
JOHN E. MCINERNEY, III	VICE PRESIDENT
CAROLE S. CULLUM	COMMISSIONER
ALLAM M. EL QADAH	COMMISSIONER
SABRINA N. SAUNDERS	COMMISSIONER

EASTELLER BRUIHL - OFFICIAL COURT REPORTER 348-0050

PROCEDURE AT HEARINGS

The order of presentation of an appeal shall be as follows: In the case of appeal of denials, revocations and suspensions the representatives of the department, board, commission or person from whose order the appeal is taken shall speak first and shall be allowed seven minutes for their presentation and three minutes for rebuttal.

The appellant whose permit has been denied, revoked or suspended shall be allowed seven minutes for oral argument and three minutes for rebuttal.

In the case of protest appeals, the protestor shall speak first and shall be allowed seven minutes to present oral argument and three minutes for rebuttal, and the permit holder shall be allowed seven minutes to present oral argument and three minutes for rebuttal. The Board may request a departmental response at its own discretion.

Other persons desiring to speak before the Board on an appeal may speak once for up to three minutes.

SPECIAL NOTES

Mailed notices of public hearings on appeals are sent to all parties at least five days prior to the date of hearing. In the event that a matter is continued to a specific date by the presiding officer and announced to the parties in the hearing room, no additional mailed notice will be sent. Please call the Board office at 575-6880 for scheduling or other information during regular business hours, or visit our website at www.ci.sf.ca.us/bdappeal/index.html.

Briefs are limited to twelve pages, excluding exhibits, which should be tabbed for easy reference.

The complete Rules of the Board are available for review at the Board office.

Material submitted by the public for Board review prior to a scheduled hearing before the Board, should be addressed to Arnold Y.K. Chin, President, and be received at the Board office, 1660 Mission Street, Room 3036, no later than 4:00 p.m. the Thursday (six days) prior to the scheduled public hearing. Persons unable to attend the scheduled public hearing may submit written comments regarding a calendared item to the Board office. Comments received before noon on the day of the hearing will be made a part of the official record and will be brought to the attention of the Board at the public hearing. For complete distribution to all Commissioners of the Board, necessary staff and case files, submit an original and ten copies.

Pursuant to Government Code Section 65009, if you challenge, in court, the approval of a variance or development permit, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Board of Appeals at, or prior to, the public hearing.

Calendared items are sometimes withdrawn or rescheduled to a later date prior to hearing, or are taken out of order to accommodate special needs. The Board urges all parties to be present in the hearing room from 5:00 p.m. so that everyone has an opportunity to participate in the relevant public hearing when it is called.

PROHIBITION OF SOUND-PRODUCING ELECTRONIC DEVICES

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

ACCESSIBILITY INFORMATION

American sign language interpreters and/or sound enhancement system will be available upon request by contacting Catherine Johnson at 575-6882 at least 72 hours prior to the hearing. Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call the accessibility hotline at 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals. The closest accessible BART station is the Civic Center station located at the intersection of Market, Hyde and Grove Streets. Accessible curbside parking has been designated at points along McAllister Street. Accessible MUNI lines serving City Hall are the 42 Downtown Loop, 9 San Bruno and 71 Haight/Noriega and the F line. Accessible MUNI Metro lines are the J, K, L, M, and N. For more information regarding MUNI accessible services, call (415) 923-6142.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force: Donna Hall, Sunshine Ordinance Task Force, City Hall, Room 409, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102-4683, Phone (415) 554-7724, fax (415) 554-7854, and e-mail Donna_Hall@ci.sf.ca.us. Copies of the Sunshine Ordinance can be obtained from the Clerk of the Sunshine Task Force, the San Francisco Public Library, and on the City's website at www.ci.sf.ca.us/bdsupvrs/sunshine.

LOBBYING ACTIVITY

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Campaign and Governmental Conduct Code § 2.100] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415) 581-2300; fax (415) 581-2317; web site www.sfgov.org/ethics.

COMMUNICATIONS

Note: Each item on this agenda may include the following documents:

1. Appellant's statement and rebuttal brief.
2. Permit holder's response and rebuttal brief.
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CITY AND COUNTY OF SAN FRANCISCO
Board of Appeals
Robert H. Feldman, Executive Secretary
1660 Mission Street, Room 3036
San Francisco, California 94103
(415) 575-6880

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES - WEDNESDAY, MARCH 13, 2002

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

PRESENT: Vice President John McInerney, Commissioner Carole Cullum, Commissioner Allam el Qadah, Commissioner Sabrina Saunders.

Judith Boyajian, Deputy City Attorney for the City Attorney (DCA); Larry Badiner, Zoning Administrator, Planning Department; Rafael Torres-Gil, Senior Building Inspector, DBI; and Robert Feldman, Executive Secretary for the Board of Appeals; Official Court Reporter, Easteller Bruihl.

ABSENT: President Arnold Y. K. Chin.

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

SPEAKERS: None

(2) **COMMISSIONERS COMMENTS & QUESTIONS:**

SPEAKERS: Commissioner Saunders apologized for her late arrival

(3) **ADDENDUM ITEMS:** None.

ITEMS (4A) & (4B) WERE HEARD TOGETHER:

(4A) **APPEAL NO. 01-039**

RICK HOLMAN, Appellant(s)
Vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPARTMENT APPROVAL

[445 Bryant Street.
[Protesting issuance on January 29, 2001, to [Armax, Inc., Permit to Demolish a Building [(office building).
[APPLICATION NO. 9912958.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner McInerney, the Board voted 4-0-1 (President Chin absent) to uphold the demolition permit on condition that action be stayed until a valid site permit

(4B) **APPEAL NO. 01-040**

RICK HOLMAN, Appellant(s)
Vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPARTMENT APPROVAL

[445 Bryant Street.
[Protesting issuance on January 29, 2001, to
[Armax, Inc., Site Permit to Erect a Building
[(eight live/work units).
[APPLICATION NO. 2000/09/15/7935S.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner McInerney, the Board voted 4-0-1 (President Chin absent) to continue the matter on the site permit to April 17, 2002.

SPEAKERS: Ken Taymor, attorney for the Appellant, said he feels the matter should not be on the agenda because the Appellant hasn't seen the plans for the revised project yet, though he doesn't oppose a project on the site. He just wants the project to comply with all Code requirements and procedures. Originally the issue had been the fire escapes. He didn't oppose the granting of the demolition permit so long as actual demolition is stayed until a permit for the proposed building has been approved and issued.

Warner Schmaltz, project architect, explained the procedural history of the proposal including the approval by Planning, the appeal to the Board and the enactment of the live-work moratorium by the Supervisors. The fire escape problem was solved with revised plans already submitted. He described the changes that are being proposed to change project from eight live-work units to eight residential units and how this new project needs conditional use authorization and rear yard exception from the Planning Commission. The Planning staff gave the proposal an okay, though the financing for the project is difficult because of the permit pending in the appeal process.

Larry Badiner, ZA, explained the zoning requirements for conditional use and exception in the subject district. He thinks the Commission process will take four or five months if the applications are timely filed. It is a completely new project as far as Planning is concerned.

NO PUBLIC COMMENT FOR EITHER SIDE

(5) **APPEAL NO. 01-222**

BRENDAN LALOR, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING COMMISSION DISAPPROVAL

§ 14 Principals: SHUI HUNG & SO CHUN LEE

[1117 Judah Street.
[Appealing denial on November 20, 2001, of
[Site Permit to Erect a Building (four-story, two-
[unit residential building with 1,575sf of ground
[floor area).
[APPLICATION NO. 2000/10/16/3112S
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner McInerney, the Board voted 4-0-1 (President Chin absent) to continue the matter to April 17, 2002 with the public hearing still open.

Larry Badiner, ZA, explained the 6-0 Planning Commission vote to deny the project in its present configuration and how he thought it can be revised by shortening it by eight feet, thus reducing its mass to the degree necessary to be in harmony with the neighborhood. Also, he thought a light reflection device on the roof might be helpful in mitigating the shadowing effect on the neighbor's house. Though the staff had recommended approval, the Commission felt it intruded too much into the neighborhood.

David Cincotta, attorney for the Appellant, said that the Appellant hadn't had legal counsel at the Discretionary Review hearing before the Commission and he had not presented a shadow study to them. He showed photos to show the minimal impact of the proposed building on the neighbors. He feels the conditions imposed by the Planning Commission are not justified by any extraordinary circumstances and the shadow impacts complained of are not extraordinary.

Mimi Lee, daughter of the Section 14 Principals and speaking for them, and for her brother, said that all the mitigation measures being offered by the project sponsor are old ones and have already been rejected. The tree removal has already been agreed to. She then reviewed the issues in her brief, including the reduction of light to the bedrooms and bathrooms, her shadow studies illustrated with a small spotlight on a model, obstructions to windows, analysis of the Commission's conditions which would allow a project with adequate floor area for the two-family building, how the design could be used to make a four-unit building illegally, and that the neighbors are opposed to the project. She said the trees and bushes don't obstruct the bedroom windows and the trees' shadows are negligible.

PUBLIC COMMENT FOR COMMISSION: Marushka France said her property was adjacent to the rear of the subject property and the project will make her deck unusable. She felt the project is too massive for the site and should be no higher than the three-story house of the Lees.

Thomas Turowski said the project's shadowing would greatly affect the flats nearby along Judah Street. He said the rear of the building was very important to the neighbors because of the sunlight and feeling they provide. Gabriel Perstya described his contacts with the Planning Department and how he had been discouraged from filing a DR request and thus had been left out of the whole process. He said most of the buildings along Judah Street are of the size of the Lees and he thought the proposed building should also be of that size.

NO PUBLIC COMMENT FOR APELLANTS.

There being no further business, Vice President McInerney adjourned the meeting at 7:08 p.m.

John E. McInerney

Robert H. Feldman, Executive Secretary

Transcripts of these hearings can be obtained from Easteller Bruihl, the Official Court Reporter. Telephone 576-0700

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Attn: Terry Gwiazdowsky

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

REGULAR MEETING - WEDNESDAY, MARCH 20, 2002

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

(2) **COMMISSIONERS COMMENTS & QUESTIONS:**

03-15-02A11:29 RCVD

(3) **ADDENDUM ITEMS:**

ITEM A: 3560-3566 – 20th Street. Letter from Micaela Lezcano, Appellant, requesting rehearing of Appeal 01-213, Lezcano vs. DPW, decided Feb. 6, 2002. At that time, upon motion by Commissioner Cullum, the Board voted 4-0-1 (President Chin absent) to uphold the denial by the Dept. of Public Works (DPW) of a permit to remove two trees (without replacement).

ITEM B: 769 North Point Street. Letter from William Ausseresses, requesting rehearing of Appeal V01-233, decided Feb. 27, 2002. At that time, upon motion by President Chin, the Board voted 4-0-1 (Commissioner Saunders absent) to uphold the denial of the subject variance. Project: legalize an existing shed that was built without a building permit in the required rear yard.

(4) **APPEAL NO. 01-163**

BEATRIZ RIVAS, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[1762 La Salle Avenue.
[Protesting issuance on September 6, 2001, to
[Ricardo Orellana, Permit to Alter a Building
[(remove illegal kitchen and bath in basement
[unit, cap utilities at source, remove non-load
[bearing partition walls of bedroom and
[closets).
[APPLICATION NO. 2001/09/06/7754.
[FOR HEARING TODAY.

ADJOURNMENT.

Note: Each item on this agenda may include the following documents: 1) Appellant's statement and rebuttal brief; 2) Permit holder's response and rebuttal brief; 3) Department decision, permit, determination or resolution; 4) Public correspondence. These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter.

Date posted: March 14, 2002

MEMBERS OF THE BOARD OF APPEALS

ARNOLD Y.K. CHIN	PRESIDENT
JOHN E. MCINERNEY, III	VICE PRESIDENT
CAROLE S. CULLUM	COMMISSIONER
ALLAM M. EL QADAH	COMMISSIONER
SABRINA N. SAUNDERS	COMMISSIONER

EASTELLER BRUIHL - OFFICIAL COURT REPORTER 348-0050

PROCEDURE AT HEARINGS

The order of presentation of an appeal shall be as follows: In the case of appeal of denials, revocations and suspensions the representatives of the department, board, commission or person from whose order the appeal is taken shall speak first and shall be allowed seven minutes for their presentation and three minutes for rebuttal.

The appellant whose permit has been denied, revoked or suspended shall be allowed seven minutes for oral argument and three minutes for rebuttal.

In the case of protest appeals, the protestor shall speak first and shall be allowed seven minutes to present oral argument and three minutes for rebuttal, and the permit holder shall be allowed seven minutes to present oral argument and three minutes for rebuttal. The Board may request a departmental response at its own discretion.

Other persons desiring to speak before the Board on an appeal may speak once for up to three minutes.

SPECIAL NOTES

Mailed notices of public hearings on appeals are sent to all parties at least five days prior to the date of hearing. In the event that a matter is continued to a specific date by the presiding officer and announced to the parties in the hearing room, no additional mailed notice will be sent. Please call the Board office at 575-6880 for scheduling or other information during regular business hours, or visit our website at www.ci.sf.ca.us/bdappeal/index.html.

Briefs are limited to twelve pages, excluding exhibits, which should be tabbed for easy reference.

The complete Rules of the Board are available for review at the Board office.

Material submitted by the public for Board review prior to a scheduled hearing before the Board, should be addressed to Arnold Y.K. Chin, President, and be received at the Board office, 1660 Mission Street, Room 3036, no later than 4:00 p.m. the Thursday (six days) prior to the scheduled public hearing. Persons unable to attend the scheduled public hearing may submit written comments regarding a calendared item to the Board office. Comments received before noon on the day of the hearing will be made a part of the official record and will be brought to the attention of the Board at the public hearing. For complete distribution to all Commissioners of the Board, necessary staff and case files, submit an original and ten copies.

Pursuant to Government Code Section 65009, if you challenge, in court, the approval of a variance or development permit, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Board of Appeals at, or prior to, the public hearing.

Calendared items are sometimes withdrawn or rescheduled to a later date prior to hearing, or are taken out of order to accommodate special needs. The Board urges all parties to be present in the hearing room from 5:00 p.m. so that everyone has an opportunity to participate in the relevant public hearing when it is called.

PROHIBITION OF SOUND-PRODUCING ELECTRONIC DEVICES

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

ACCESSIBILITY INFORMATION

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KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force: Donna Hall, Sunshine Ordinance Task Force, City Hall, Room 409, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102-4683, Phone (415) 554-7724, fax (415) 554-7854, and e-mail Donna_Hall@ci.sf.ca.us. Copies of the Sunshine Ordinance can be obtained from the Clerk of the Sunshine Task Force, the San Francisco Public Library, and on the City's website at www.ci.sf.ca.us/bdsupvrs/sunshine.

LOBBYING ACTIVITY

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COMMUNICATIONS

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CITY AND COUNTY OF SAN FRANCISCO
Board of Appeals
Robert H. Feldman, Executive Secretary
1660 Mission Street, Room 3036
San Francisco, California 94103
(415) 575-6880

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

REGULAR MEETING - WEDNESDAY, APRIL 3, 2002

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

DOCUMENTS DEPT.

APR - 1 2002

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(2) **COMMISSIONERS COMMENTS & QUESTIONS:**

(3) **ADDENDUM ITEMS:**

ITEM A: 20 Cosmo Place. Letter from Justine de Alba, agent for Le Colonial LLP, Requestor, asking that the Board take jurisdiction over a Police Place of Entertainment Permit Application Zoning Referral Disapproval.

Date Decision Issued: Jan. 30, 2002
Last Day to Appeal: Feb. 14, 2002
Date Jurisdiction Request Received: Mar. 14, 2002

(4) **CONSENT ITEMS:** With the consent of the Department of Building Inspection, the Board will proceed to a vote without testimony to reduce the penalty (investigation fee) to two times the regular fee as provided for in the Building Code. Without consent the Board will take testimony and then decide the appeal.

(4A) **APPEAL NO. 02-015**

TIN SHEK TAM, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[1551 – 40th Avenue.
[Appeal of refund of penalty for work done
[without a permit.
[APPLICATION NO. 2001/11/16/3386.
[JURISDICTION GRANTED JAN. 30, 2002.
[FOR HEARING TODAY.

(4B) **APPEAL NO. 02-024**

NATIVIDAD POQUIZ, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[130 Onondaga Avenue.
[Appeal for refund of penalty for work done [without a permit.
[APPLICATION NO. 2002/02/08/8834.
[FOR HEARING TODAY.

(5) **APPEAL NO. 01-235**

ARIK SHARABI, Appellant(s)
vs.
POLICE DEPARTMENT, Respondent

[Northeast Corner of Drumm & California.
[Appealing denial on December 3, 2001, of [Pushcart Peddler Permit for failure to meet site [criteria.
[FOR HEARING TODAY.

ITEMS (6A) & (6B) SHALL BE HEARD TOGETHER:

(6A) **APPEAL NO. 02-018**

UNITED TAXICAB WORKERS, BERHANE ASSEFA, PETER KLEINMAN & ZAREH SOGHIKIAN, Appellant(s)
vs.
TAXI COMMISSION, Respondent

[Appealing issuance on January 30, 2002, to [John Lazar, taxicab medallion no(s). 109.
[FOR HEARING TODAY.

(6B) **APPEAL NO. 02-019**

UNITED TAXICAB WORKERS, BERHANE ASSEFA, PETER KLEINMAN & ZAREH SOGHIKIAN, Appellant(s)
vs.
TAXI COMMISSION, Respondent

[Appealing issuance on January 30, 2002, to [John Lazar, taxicab medallion no(s). 138.
[FOR HEARING TODAY.

(7) **APPEAL NO. 02-021**

TERRY CHAN, Appellant(s)
vs.
TAXI COMMISSION, Respondent

[Appealing the rescission on January 30, 2002 [of taxicab medallion no(s). 758.
[FOR HEARING TODAY.

(8) **APPEAL NO. 02-016**

RUSSELL FLYNN, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. DISAPPROVAL

[770 California Street.
[Appealing denial on January 25, 2002, of [Permit to Alter a Building (legalize existing [basement studio unit).
[APPLICATION NO. 2001/06/04/0679.
[FOR HEARING TODAY.

(9) **APPEAL NO. 02-017**

TEODORA MONTOYA, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. DISAPPROVAL

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(10) **APPEAL NO. 02-022**

CAROL BROWNFIELD, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[2255 – 42nd Avenue.
[Protesting issuance on February 1, 2002, to [Vincent Cheng, Site Permit to Alter a Building [(horizontal addition at the rear).
[APPLICATION NO. 2001/01/22/0274S.
[FOR HEARING TODAY.

(11) **APPEAL NO. 02-025**

LAURA NEWMAN, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[148 – 7th Avenue.
[Protesting issuance on February 6, 2002, to [Geoffrey & Cindy Bennett, Permit to Alter a [Building (revision to Building Permit Application [No. 9912734, additional new third story and [new rework of interior partitions).
[APPLICATION NO. 2001/01/10/9544S.
[FOR HEARING TODAY.

(12) **APPEAL NO. 02-029**

1355 MARKET STREET ASSOCIATES & WESTERN MART CO., Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[1355 Market Street, 875 Stevenson Street.
[Appealing a determination dated February 21, [2002, addressed to Tim Tosta at Steefel Levitt [& Weiss LLP, that the permanent legal use of [the subject properties is design showroom and [is not office under Planning Code §'s 320-325.
[FOR HEARING TODAY.

ADJOURNMENT.

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Date posted: March 28, 2002

MEMBERS OF THE BOARD OF APPEALS

ARNOLD Y.K. CHIN	PRESIDENT
JOHN E. MCINERNEY, III	VICE PRESIDENT
CAROLE S. CULLUM	COMMISSIONER
ALLAM M. EL QADAH	COMMISSIONER
SABRINA N. SAUNDERS	COMMISSIONER

EASTELLER BRUIHL - OFFICIAL COURT REPORTER 348-0050

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Board of Appeals
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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES - WEDNESDAY, APRIL 3, 2002

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

PRESENT: President Arnold Y. K. Chin, Vice President John McInerney, Commissioner Carole Cullum, Commissioner Allam el Qadah, Commissioner Sabrina Saunders.

Judith Boyajian, Deputy City Attorney for the City Attorney (DCA); Larry Badiner, Zoning Administrator, Planning Department; Rafael Torres-Gil, Senior Building Inspector, DBI; and Robert Feldman, Executive Secretary for the Board of Appeals; Official Court Reporter, Easteller Bruihl.

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

SPEAKERS: None

(2) **COMMISSIONERS COMMENTS & QUESTIONS:**

SPEAKERS: Commissioner Cullum announced she would not attend the meeting of April 24, 2002. President Chin directed staff to arrange new hearing date for appeals on the April 24 calendar who want a five-member Board.

(3) **ADDENDUM ITEMS:**

ITEM A: 20 Cosmo Place. Letter from Justine de Alba, agent for Le Colonial LLP, Requestor, asking that the Board take jurisdiction over a Police Place of Entertainment Permit Application Zoning Referral Disapproval.

Date Decision Issued: Jan. 30, 2002
Last Day to Appeal: Feb. 14, 2002
Date Jurisdiction Request Received: Mar. 14, 2002

ACTION: Upon motion by Commissioner El Qadah, the Board voted 5-0 to grant the jurisdiction request.

SPEAKERS: Justine de Alba, requestor, explained that the letter of decision from the S.F.P.D. had been addressed to Tim Dale and not to her and she hadn't gotten it until Dale returned from vacation. Larry Badiner, ZA, said he had no objection to allowing a late filing of the appeal.

(4) **CONSENT ITEMS:** With the consent of the Department of Building Inspection, the Board will proceed to a vote without testimony to reduce the penalty (investigation fee) to two times the regular fee as provided for in the Building Code. Without consent the Board will take testimony and then decide the appeal.

(4A) **APPEAL NO. 02-015**

TIN SHEK TAM, Appellant(s)	[1551 – 40th Avenue.
vs.	[Appeal of refund of penalty for work done
DEPT. OF BUILDING INSPECTION,	[without a permit.
Respondent	[APPLICATION NO. 2001/11/16/3386.
PLANNING DEPT. APPROVAL	[JURISDICTION GRANTED JAN. 30, 2002.
	[FOR HEARING TODAY.

ACTION: Upon motion by Vice President McInerney, the Board voted 5-0 to reduce the subject penalty to seven (7) times the regular fee.

SPEAKERS: Laurence Kornfield indicated consent to reducing penalty. Appellant was present and didn't speak.

(4B) **APPEAL NO. 02-024**

NATIVIDAD POQUIZ, Appellant(s)	[130 Onondaga Avenue.
vs.	[Appeal for refund of penalty for work done
DEPT. OF BUILDING INSPECTION,	[without a permit.
Respondent	[APPLICATION NO. 2002/02/08/8834.
PLANNING DEPT. APPROVAL	[FOR HEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted 5-0 to reduce the subject penalty to two (2) times the regular fee.

SPEAKERS: Mrs. Tam for her husband, the appellant, said that they didn't know they needed a permit to work in their yard and have never before gotten any permits.

Laurence Kornfield, CBI, DBI, said that he had spoken to the district inspector and walls eighteen feet long were built without permits as well as a concrete slab with plumbing and electrical lines.

(5) **APPEAL NO. 01-235**

ARIK SHARABI, Appellant(s)
vs.
POLICE DEPARTMENT, Respondent

[Northeast Corner of Drumm & California.
[Appealing denial on December 3, 2001, of
[Pushcart Peddler Permit for failure to meet site
[criteria.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Cullum, the Board voted 4-1 (Commissioner El Qadah dissented) to uphold the subject denial by the Police Department.

SPEAKER: Sgt. William Coggan, S.F.P.D. said that neither the Appellant nor his attorney were present.

ITEMS (6A) & (6B) WERE HEARD TOGETHER:

(6A) **APPEAL NO. 02-018**

UNITED TAXICAB WORKERS, BERHANE ASSEFA, PETER KLEINMAN & ZAREH SOGHIKIAN, Appellant(s)
vs.
TAXI COMMISSION, Respondent

[Appealing issuance on January 30, 2002, to
[John Lazar, taxicab medallion no(s). 109.
[FOR HEARING TODAY.

(6B) **APPEAL NO. 02-019**

UNITED TAXICAB WORKERS, BERHANE ASSEFA, PETER KLEINMAN & ZAREH SOGHIKIAN, Appellant(s)
vs.
TAXI COMMISSION, Respondent

[Appealing issuance on January 30, 2002, to
[John Lazar, taxicab medallion no(s). 138.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner McInerney, the Board voted 4-1 (Commissioner Cullum dissented) to dismiss the cases for lack of subject matter jurisdiction with the filing fees to be returned to the appellants.

SPEAKERS: Mark Gruberg, Co-Appellant asked the Board to allow him additional time and for a refund of one appeal fee. He then gave a history of the subject medallions and said there is no evidence that John Lazar's name was ever added to the medallion of Bill Lazar Sr. an experienced and successful taxicab operator who understood Prop. K and had himself put a competing measure on the ballot at the time of Prop. K.

Berhane Ossefa, Co-Appellant said that he has been a driver and medallion owner for eleven years. He said that it has been City policy for twenty-three years to not allow the transfer of medallions and he agreed with Mr. Gruberg.

(7) **APPEAL NO. 02-021**

TERRY CHAN, Appellant(s)
vs.
TAXI COMMISSION, Respondent

[Appealing the rescission on January 30, 2002,
[of taxicab medallion no(s). 758.
[FOR HEARING TODAY.

ACTION: This matter was rescheduled to May 29, 2002 prior to hearing.

(8) **APPEAL NO. 02-016**

RUSSELL FLYNN, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. DISAPPROVAL

[770 California Street.
[Appealing denial on January 25, 2002, of
[Permit to Alter a Building (legalize existing
[basement studio unit).
[APPLICATION NO. 2001/06/04/0679.
[FOR HEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted 5-0 to overrule the denial by the Planning Department and grant the permit on condition that a floor plan be submitted to the Department of Building Inspection.

SPEAKERS: Larry Badiner, ZA, explained that this case is different from the recent appeal concerning a caretaker's unit in an apartment house. Here there is no permit history showing the addition of another unit.

Laurence Kornfield, CBI, DBI, said that the 1973 record shows there is no unit below the first floor of occupancy. The unit appears to have been added recently.

Ron Wallace, architect for the owner said there is no evidence showing exactly when the unit was added, and that the shortage of affordable housing in the City should be argument enough to allow this unit to remain in light of any evidence it was illegally added. The records show there are fifty-four units listed and all occupied, fifty-three studios and one one-bedroom. The subject unit was there in the late 1980s when building was purchased. The owner has tried to correct the few minor problems and Planning then said unit illegal for lack of additional parking space. He said there is lots of curb parking in the area, but he can't prove unit was created prior to 1956 and Planning said they wouldn't approve a parking variance to allow legalization.

NO PUBLIC COMMENT FOR EITHER SIDE.

(9) **APPEAL NO. 02-017**

TEODORA MONTOYA, Appellant(s)	[951 Naples Street.
vs.	[Appealing denial on February 4, 2002, of
DEPT. OF BUILDING INSPECTION,	[Permit to Alter a Building (legalize existing in-
Respondent	[law apartment in basement).
PLANNING DEPT. DISAPPROVAL	[APPLICATION NO. 2001/10/10/0331.
	[FOR HEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted 5-0 to continue the matter for 60 days to June 5, 2002.

SPEAKERS: Larry Badiner, ZA, said the zoning is RH-1 and a second unit is not permitted on the lot.

Lena Montoya, daughter of the Appellant, speaking for her mother said that they understood they couldn't keep the space as a separate unit but did want to keep the basement rooms for storage and a laundry area.

Laurence Kornfield, CBI, DBI, said a new permit application would ordinarily be necessary to legalize the storage laundry areas but in this case because of the hardship he would assist the Appellant in legalizing the space with revised plans under the existing permit application and he would also advise as to assistance possible from the Mayor's Office of Housing.

NO PUBLIC COMMENT FOR EITHER SIDE.

(10) **APPEAL NO. 02-022**

CAROL BROWNFIELD, Appellant(s)	[2255 – 42nd Avenue.
vs.	[Protesting issuance on February 1, 2002, to
DEPT. OF BUILDING INSPECTION,	[Vincent Cheng, Site Permit to Alter a Building
Respondent	[(horizontal addition at the rear).
PLANNING DEPT. APPROVAL	[APPLICATION NO. 2001/01/22/0274S.
	[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Saunders, the Board voted 5-0 to uphold the subject permit on condition that the subject hallway be removed.

SPEAKERS: Carol Brownfield, Appellant, introduced her attorney, Noel Commins who said that the project will disturb her because it will block her light, air and view, and the seven bedrooms in the subject house will generate many cars and parking congestion.

John Lau, consultant for the permit holder, described the project as a one-level addition into the rear yard. He said he had given the appellant a set of plans and had explained them to her. His client needs the addition to house his large family and it will be many years until the small children drive cars.

Larry Badiner, ZA, said that Section 311 notice had been sent out. Also, the Department has required the permit holder to record a Notice of Special Restrictions to inform subsequent owners that the addition can't be used as a separate unit. He explained how plan could be altered to allow for a small second parking space in the garage if the non-bearing partition is removed..

(11) **APPEAL NO. 02-025**

LAURA NEWMAN, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[148 – 7th Avenue.
[Protesting issuance on February 6, 2002, to [Geoffrey & Cindy Bennett, Permit to Alter a [Building (revision to Building Permit Application [No. 9912734, additional new third story and [new rework of interior partitions).
[APPLICATION NO. 2001/01/10/9544S.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Saunders, the Board voted 5-0 to uphold the subject permit.

SPEAKERS: James Driscoll, attorney for Appellant, said that she was unable to attend the hearing. His client didn't pursue a DR hearing but has now protested because plans show the project closer to her building and both higher and deeper; and a fire hazard. It will be a monster home.

Geoffrey Bennett, permit holder, using pictures, explained history of parties' involvement in the project and said his house is smaller than most of the houses nearby. He said his architect, Gustave Carlson, kept the same footprint and that those walking by can't see any construction not even the small study added over the bedroom. The project had input from the Planners and meets the RDG (Residential Design Guidelines) to preserve the craftsman style of the area.

NO PUBLIC COMMENT FOR EITHER SIDE.

(12) **APPEAL NO. 02-029**

1355 MARKET STREET ASSOCIATES & WESTERN MART CO., Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[1355 Market Street, 875 Stevenson Street.
[Appealing a determination dated February 21, [2002, addressed to Tim Tosta at Steefel Levitt [& Weiss LLP, that the permanent legal use of [the subject properties is design showroom and [is not office under Planning Code §'s 320-325.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner McInerney, the Board voted 4-1 (Commissioner Cullum dissented) to overrule the subject determination with adoption of findings as submitted by the appellants' attorney.

Larry Badiner, ZA, explained the appeal as an Annual Limit problem since the proposed conversion to office use must first be authorized by the Planning Commission under the Annual Limit, with the owner required to pay substantial fees for housing, transit and child care programs to ameliorate the impact of the new office space on the City. He said the building was designed for showroom use and not as an office building and was built in 1937 prior to Proposition M and the Annual Limits approved by voters.

Laurence Kornfield, CBI, DBI said that until 1995 the Building Code considered office and mercantile uses the same occupancy and then broke them apart. He said he is very familiar with the building and it most resembles the mercantile category, not the office category. This is not pre-existing office space but is required to go through the office conversion process.

Timothy Tosta, attorney for the owner said the facts are overwhelming that the building is an office building and the whole building should be deemed as office use. He described the history of the building since it was built in 1937 and it is similar to the office building at 450 Sutter and the Mills Building. He said other major cities consider this type of building to be deemed office buildings.

PUBLIC COMMENT FOR CITY:

Brad Paul said that $25 million was at stake since the determination requires the owner to go though the office authorization process of the Planning Commission which will require fees for creation of affordable housing, transit and child care, depending on the square feet of office space created; to ameliorate the impact of new office space on the City.

Doug Shoemaker, said he felt the building was not a specialty office use and if converted to office could generate 4,000 new office workers for which the $17-$18 million fees were needed for transit, housing and childcare. He thought such fees could provide 180 to 200 new affordable units of housing which is crucial for the City. It will be shameful if these fees go down the drain..

Margaret Brodkin of Coleman Advocates for Children & Youth said that the office conversion fees are necessary to provide childcare for the office workers that will work in the building. The children of the City will be cheated if these fees are not collected. Parents are desperate for childcare and the Board shouldn't allow the owner to avoid paying the fees.

Carlos Romero said he was an architectural designer and in his view the building is not an office building and this conversion to office space could generate enough fees to build 200 housing units which will be needed by the office workers generated.

Sue Hestor said she had tried to get office space for her own law office in the building and couldn't because there were too many restrictions on office use there including limited access for showrooms. She saw no office files when she visited the building as you would in a regular office building, just furniture and house accessories. The mercantile use was not changed by the City using 875 Stevenson for last four years. She explained the history of the definition of office use for the Affordable Housing Fee legislation.

NO PUBLIC COMMENT FOR APPELLANT.

There being no further business, President Chin adjourned the meeting at 9:15 p.m.

Arnold Y. K. Chin, President

Robert H. Feldman, Executive Secretary

Transcripts of these hearings can be obtained from Easteller Bruihl, the Official Court Reporter. Telephone 576-0700

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Attn: Terry Gwiazdowsky

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

REGULAR MEETING - WEDNESDAY, APRIL 17, 2002

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

(2) **COMMISSIONERS COMMENTS & QUESTIONS:**

(3) **ADDENDUM ITEMS:**

ITEM A: 144 Eddy Street. Letter from Andrew Zacks, attorney for appellant Empress LLC, requesting rehearing of Appeal No. 01-082, Empress LLC vs. ZA, decided January 9, 2002. Upon motion by Commissioner Cullum, the Board voted 3-2 (President Chin & Commissioner El Qadah dissented) to uphold the subject determination. Determination Holder: Tenderloin Housing Clinic.

ITEM B: 144 Eddy Street. Proposed findings for Appeal 01-081, West Cork LLC vs. ZA, and Appeal 01-082, Empress LLC vs. ZA, decided Jan. 9, 2002. Upon motion by Commissioner Cullum, the Board voted 3-2 (President Chin & Commissioner El Qadah dissented) to uphold the subject determination. Determination Holder: Tenderloin Housing Clinic. For adoption today.

ITEM C: 292 Ivy Street, a.k.a. 393-399 Grove Street, & 450 Gough Street, a.k.a. the "wood building." Letter from Steve Atkinson, attorney for Peer Logic/Critical Path, co-determination holder, requesting rehearing of Appeal 02-001, Max Limited LLC vs. ZA, decided Feb. 20, 2002. Upon motion by Commissioner Cullum, the Board voted 4-1 (President Chin dissented) to overrule the subject determination with findings to be prepared by the appellant's attorney. Appellant: Max Limited LLC.

ITEM D: 292 Ivy Street, a.k.a. 393-399 Grove Street, & 450 Gough Street, a.k.a. the "wood building." Adoption of Findings for Appeal 02-001, Max Limited LLC vs. ZA, decided Feb. 20, 2002. Proposed findings submitted by Charles Olson, attorney for Max Limited LLC.

ITEM E: 1196 Hampshire Street. Letter from Frank Duarte, requestor, asking that the Board take jurisdiction over Variance Decision No(s). 2001.1160V, granted to James Cline & William Sorenson. Project: to demolish and rebuild a two-story non-complying rear yard structure.

Date Variance Granted: Feb. 14, 2002.
Last Day to Appeal: Feb. 24, 2002
Date Jurisdiction Request Received: March 19, 2002

(4) **APPEAL NO. 01-138**

2836 WASHINGTON ST., LLC, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING COMMISSION DISAPPROVAL

§ 14 Principal(s): None.

[2836 Washington Street.
[Appealing denial on August 16, 2001, of Site
[Permit to Alter a Building (revise plans under
[Building Permit Application No. 9903501 in
[order to retain pre-existing walls [to serve as a
[parapet for the roof).
[APPLICATION NO. 2001/05/11/8354S.
[ORIGINAL HEARING HELD DEC. 5, 2001.
[NOTICE OF SPECIAL RESTRICTIONS
[ADOPTED JAN. 16, 2002.
[REQUEST FOR REHEARING GRANTED
[FEB. 27, 2002.
[FOR REHEARING TODAY.

(5) **APPEAL NO. 01-238**

ERIK VON MULLER & PETER FRY, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[4733 – 18th Street.
[Appealing a Determination dated December 13
[2001 that Building Permit Application No(s)
[2000/12/20/8359 be suspended, and that a
[work already completed but not conforming t
[that shown on the plans for Site Perm
[Addendum No(s). 9817703/S-1 be removed b
[the project sponsor.
[PUBLIC HEARING HELD & CLOSED FEB. 6
[2002.
[FOR FURTHER CONSIDERATION TODAY.

(6) **APPEAL NO. 01-222**

BRENDAN LALOR, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING COMMISSION DISAPPROVAL

§ 14 Principals: SHUI HUNG & SO CHUN LEE

[1117 Judah Street.
[Appealing denial on November 20, 2001, of [Site Permit to Erect a Building (four-story, two-[unit residential building with 1,575sf of ground [floor area).
[APPLICATION NO. 2000/10/16/3112S
[PUBLIC HEARING HELD MAR. 13, 2002.
[FOR FURTHER CONSIDERATION TODAY.

(7) **APPEAL NO. 01-225**

JIMMY LEE, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING COMMISSION DISAPPROVAL

§ 14 Principals: None.

[2 Upland Drive.
[Appealing a denial, on November 14, 2001, of [Site Permit to Alter a Building (alter front entry, [add vertical story over existing building).
[APPLICATION NO. 2000/12/14/7910S.
[FOR HEARING TODAY.

(8) **APPEAL NO. 01-243**

ANDREW & STACEY
FROST, ROBERT & MARIAN
HEATH, KAREN LARSEN, MICHAEL
SHANE, RONNA STONE, TIMOTHY
SMITH, VERNE & ROBERT DOXEY,
DAVID IRWIN, SUSAN GAMBLE,
DEBORAH & H. BOYD SEYMOUR,
and NANCY & ROGER BOAS, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[3352 Washington Street.
[Appealing a determination dated December [17, 2001, addressed to Alice Barkley, attorney [for owners John & Shirley Oswald, that the [proposed roof structure on the subject [property is a dormer and that it complies with [Planning Code § 261 in terms of area [limitation requirements for permitted [exceptions, and that the proposed roof height [is code complying.
[APPLICATION NO. 2000/06/16/2818.
[FOR HEARING TODAY.

ITEMS (9A) & (9B) SHALL BE HEARD TOGETHER:

(9A) **APPEAL NO. V02-014**

CHI NGUYEN, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[626 – 29th Street.
[Appealing conditions of a Front Setback [Variance (construct a new 3-story single family [dwelling in the required front setback) granted [on January 23, 2002.
[VARIANCE CASE NO. 2001.0146
[FOR HEARING TODAY.

(9B) **APPEAL NO. 02-028**

CHI NGUYEN, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING COMMISSION DISAPPROVAL

§ 14 Principals: THERESA ROBBERSON

[626 – 29th Street.
[Appealing the denial on February 25, 2002, of [Permit to Erect a Building (3-story single family [dwelling with 1000sf of ground floor area).
[APPLICATION NO. 2000/08/10/7566.
[FOR HEARING TODAY.

ADJOURNMENT.

Note: Each item on this agenda may include the following documents:

1. Appellant's statement and rebuttal brief.
2. Permit holder's response and rebuttal brief.
3. Department decision, permit, determination or resolution.
4. Public correspondence.

These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter. Please call 575-6880 if you have any questions concerning this agenda.

Date posted: April 11, 2002

MEMBERS OF THE BOARD OF APPEALS

ARNOLD Y.K. CHIN	PRESIDENT
JOHN E. MCINERNEY, III	VICE PRESIDENT
CAROLE S. CULLUM	COMMISSIONER
ALLAM M. EL QADAH	COMMISSIONER
SABRINA N. SAUNDERS	COMMISSIONER

EASTELLER BRUIHL - OFFICIAL COURT REPORTER 348-0050; THE PRESIDING OFFICER WILL CALL A RECESS AT 6:30 P.M. & WHENEVER NECESSARY FOR THE CONVENIENCE OF THE COURT REPORTER.

PROCEDURE AT HEARINGS

The order of presentation of an appeal shall be as follows: In the case of appeal of denials, revocations and suspensions the representatives of the department, board, commission or person from whose order the appeal is taken shall speak first and shall be allowed seven minutes for their presentation and three minutes for rebuttal.

The appellant whose permit has been denied, revoked or suspended shall be allowed seven minutes for oral argument and three minutes for rebuttal.

In the case of protest appeals, the protestor shall speak first and shall be allowed seven minutes to present oral argument and three minutes for rebuttal, and the permit holder shall be allowed seven minutes to present oral argument and three minutes for rebuttal. The Board may request a departmental response at its own discretion.

Other persons desiring to speak before the Board on an appeal may speak once for up to three minutes.

SPECIAL NOTES

Mailed notices of public hearings on appeals are sent to all parties at least five days prior to the date of hearing. In the event that a matter is continued to a specific date by the presiding officer and announced to the parties in the hearing room, no additional mailed notice will be sent. Please call the Board office at 575-6880 for scheduling or other information during regular business hours, or visit our website at www.ci.sf.ca.us/bdappeal/index.html.

Briefs are limited to twelve pages, excluding exhibits, which should be tabbed for easy reference.

The complete Rules of the Board are available for review at the Board office.

Material submitted by the public for Board review prior to a scheduled hearing before the Board, should be addressed to Arnold Y.K. Chin, President, and be received at the Board office, 1660 Mission Street, Room 3036, no later than 4:00 p.m. the Thursday (six days) prior to the scheduled public hearing. Persons unable to attend the scheduled public hearing may submit written comments regarding a calendared item to the Board office. Comments received before noon on the day of the hearing will be made a part of the official record and will be brought to the attention of the Board at the public hearing. For complete distribution to all Commissioners of the Board, necessary staff and case files, submit an original and ten copies.

Pursuant to Government Code Section 65009, if you challenge, in court, the approval of a variance or development permit, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Board of Appeals at, or prior to, the public hearing.

Calendared items are sometimes withdrawn or rescheduled to a later date prior to hearing, or are taken out of order to accommodate special needs. The Board urges all parties to be present in the hearing room from 5:00 p.m. so that everyone has an opportunity to participate in the relevant public hearing when it is called.

PROHIBITION OF SOUND-PRODUCING ELECTRONIC DEVICES

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

ACCESSIBILITY INFORMATION

American sign language interpreters and/or sound enhancement system will be available upon request by contacting Catherine Johnson at 575-6882 at least 72 hours prior to the hearing. Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call the accessibility hotline at 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals. The closest accessible BART station is the Civic Center station located at the intersection of Market, Hyde and Grove Streets. Accessible curbside parking has been designated at points along McAllister Street. Accessible MUNI lines serving City Hall are the 42 Downtown Loop, 9 San Bruno and 71 Haight/Noriega and the F line. Accessible MUNI Metro lines are the J, K, L, M, and N. For more information regarding MUNI accessible services, call (415) 923-6142.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force: Donna Hall, Sunshine Ordinance Task Force, City Hall, Room 409, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102-4683, Phone (415) 554-7724, fax (415) 554-7854, and e-mail Donna_Hall@ci.sf.ca.us. Copies of the Sunshine Ordinance can be obtained from the Clerk of the Sunshine Task Force, the San Francisco Public Library, and on the City's website at www.ci.sf.ca.us/bdsupvrs/sunshine.

LOBBYING ACTIVITY

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Campaign and Governmental Conduct Code § 2.100] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415) 581-2300; fax (415) 581-2317; web site www.sfgov.org/ethics.

COMMUNICATIONS

Note: Each item on this agenda may include the following documents:

1. Appellant's statement and rebuttal brief.
2. Permit holder's response and rebuttal brief.
3. Department decision, permit, determination or resolution.
4. Public correspondence.

These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter.

CITY AND COUNTY OF SAN FRANCISCO
Board of Appeals
Robert H. Feldman, Executive Secretary
1660 Mission Street, Room 3036
San Francisco, California 94103
(415) 575-6880

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES- WEDNESDAY, APRIL 17, 2002

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

PRESENT: President Arnold Y. K. Chin, Vice President John McInerney, Commissioner Carole Cullum, Commissioner Allam el Qadah, Commissioner Sabrina Saunders.

Judith Boyajian, Deputy City Attorney for the City Attorney (DCA); Larry Badiner, Zoning Administrator, Planning Department; Rafael Torres-Gil, Senior Building Inspector, DBI; and Robert Feldman, Executive Secretary for the Board of Appeals; Official Court Reporter, Easteller Bruihl.

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

SPEAKERS: None

(2) **COMMISSIONERS COMMENTS & QUESTIONS:**

SPEAKERS: President Chin requested an opinion from the City Attorney regarding scheduling of hearings after June 30, 2002, the last day of service for the present Board. He announced that Commissioner Saunders would leave the meeting at 6:30 p.m. because of family illness, leaving a four-member Board for the remainder of the meeting. He then reported on the adoption by the Supervisors of the Code Amendment for deletion of the official court reporter requirement, noting that the City Watch videotape will be acceptable as an administrative record of Board proceedings in addition to the court reporter transcript. He thanked Mr. Badiner for the Planning report on the eastern side of the City.

(3) **ADDENDUM ITEMS:**

ITEM A: 144 Eddy Street. Letter from Andrew Zacks, attorney for appellant Empress LLC, requesting rehearing of Appeal No. 01-082, Empress LLC vs. ZA, decided January 9, 2002. Upon motion by Commissioner Cullum, the Board voted 3-2 (President Chin & Commissioner El Qadah dissented) to uphold the subject determination. Determination Holder: Tenderloin Housing Clinic.

ACTION: This matter was rescheduled to June 5, 2002.

SPEAKERS: None

ITEM B: 144 Eddy Street. Proposed findings for Appeal 01-081, West Cork LLC vs. ZA, and Appeal 01-082, Empress LLC vs. ZA, decided Jan. 9, 2002. Upon motion by Commissioner Cullum, the Board voted 3-2 (President Chin & Commissioner El Qadah dissented) to uphold the subject determination. Determination Holder: Tenderloin Housing Clinic. For adoption today.

ACTION: This matter was rescheduled to June 5, 2002.

SPEAKERS: None

ITEM C: 292 Ivy Street, a.k.a. 393-399 Grove Street, & 450 Gough Street, a.k.a. the "wood building." Letter from Steve Atkinson, attorney for Peer Logic/Critical Path, co-determination holder, requesting rehearing of Appeal 02-001, Max Limited LLC vs. ZA, decided Feb. 20, 2002. Upon motion by Commissioner Cullum, the Board voted 4-1 (President Chin dissented) to overrule the subject determination with findings to be prepared by the appellant's attorney. Appellant: Max Limited LLC.

ACTION: Upon motion by Commissioner Cullum, the Board voted 5-0 to deny the rehearing request.

SPEAKERS: Steve Atkinson, representing Determination Holder Peer Logic/Critical Path, asked the Board to grant a rehearing and described the voluminous support of neighbors (230 cards and letters) and nearby businesses to disallow Max Limited LLC from occupying the subject building because it is not a neighborhood-serving business and would congest the area and undermine the Neighborhood-Commercial zoning district.

Charles Olson, attorney for the Appellant, Max Limited LLC, urged the Board to deny the request for lack of substantial new evidence. He said he has thirty letters in support from businesses in the area.

PUBLIC COMMENT FOR REQUESTOR/DETERMINATION HOLDER:

April Chartrand said the Appellant should support local non-profits and become a part of the community if they don't, then the local people will protest. Irving Lind, said he opposed the non-neighborhood business because there are schools and churches within two blocks of the site and terrible traffic already making the site unsuitable for the proposed business. Daniel Mahoney, a Hayes Valley resident, said that his concern is the parking problems and he wants new businesses that serve the community. Robin Levitt said the flyer distributed in the neighborhood by Critical Path was manipulative and that they are trying to get out of a lease agreement that was a bad deal since the dot.com boom is over. Leslie Katz said that the flyer contained misinformation and that Critical Path won't be moving in and a non-profit is moving in. She feels the Board made a well thought-out decision. John Pozen of 335 Grove said if they were not moving in he wouldn't speak. Kelly Bengel of 115 Gough said the HIV community is against larger business in this area.

ITEM D: 292 Ivy Street, a.k.a. 393-399 Grove Street, & 450 Gough Street, a.k.a. the "wood building." Adoption of Findings for Appeal 02-001, Max Limited LLC vs. ZA, decided Feb. 20, 2002. Proposed findings submitted by Charles Olson, attorney for Max Limited LLC.

ACTION: Upon motion by Commissioner Cullum, the Board voted 5-0 to adopt the subject findings.

SPEAKERS: No public comment for the Appellant.

ITEM E: 1196 Hampshire Street. Letter from Frank Duarte, requestor, asking that the Board take jurisdiction over Variance Decision No(s). 2001.1160V, granted to James Cline & William Sorenson. Project: to demolish and rebuild a two-story non-complying rear yard structure.

Date Variance Granted:	Feb. 14, 2002.
Last Day to Appeal:	Feb. 24, 2002
Date Jurisdiction Request Received:	March 19, 2002

ACTION: Upon motion by Vice President McInerney, the Board voted 5-0 to deny the jurisdiction request.

SPEAKERS: Frank Duarte, Requestor, said he is a novice and didn't appeal the variance decision as he had appealed the permit. He said this had been a voluntary razing and it shouldn't have been allowed to be rebuilt but should have been required to meet all Code standards for a new building. Lawrence Badiner, ZA, said that there had been an opportunity to appeal the various decisions within the prescribed ten-day period and he felt there is no justification for allowing a late filing at this time. He explained how Planning disseminated decisions and information on appeal rights. David Levy, attorney for the variance holders, said that the Requestor had said "he didn't feel appealing the variance decision was worth it" and that his clients have relied on the issued variance which was not appealed and there was no basis for allowing an appeal at this late date.

(4) **APPEAL NO. 01-138**

2836 WASHINGTON ST., LLC, Appellant(s)	[2836 Washington Street.
vs.	[Appealing denial on August 16, 2001, of Site
DEPT. OF BUILDING INSPECTION,	[Permit to Alter a Building (revise plans under
Respondent	[Building Permit Application No. 9903501 in
PLANNING COMMISSION DISAPPROVAL	[order to retain pre-existing walls [to serve as a
	[parapet for the roof).
§ 14 Principal(s): None.	[APPLICATION NO. 2001/05/11/8354S.
	[ORIGINAL HEARING HELD DEC. 5, 2001.
	[NOTICE OF SPECIAL RESTRICTIONS
	[ADOPTED JAN. 16, 2002.
	[REQUEST FOR REHEARING GRANTED
	[FEB. 27, 2002.
	[FOR REHEARING TODAY.

ACTION: Upon motion by Commissioner Cullum, the Board voted 5-0 to overrule the denial of the subject permit by the Planning Commission on condition that a Notice of Special Restrictions (NSR) be recorded on the land records.

SPEAKERS: Lawrence Badiner, ZA, explained the Planning Commission's decision to prohibit use of the top rear roof as a deck where it projects into the required rear yard and gave the history of this project before the Planning Commission, and this Board, explaining the Commission's latest decision and motion. Rene Penaido, Appellant, explained that all his permit is meant to do is legalize the existing parapet on the top of the rear roof, since it is a pre-existing parapet. He reminded the Board he had submitted a Notice of Special Restriction to them.

PUBLIC COMMENT FOR THE ZONING ADMINISTRATOR: Alexander Seidel, a neighbor, showed photos of the rear of the subject house before the renovation to show the rear of the roof had no parapets. He said that the present condition doesn't comply with the Codes.

NO PUBLIC COMMENT FOR THE APPELLANT.

(5) **APPEAL NO. 01-238**

ERIK VON MULLER & PETER FRY, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[4733 – 18th Street.
[Appealing a Determination dated December 13, [2001 that Building Permit Application No(s). [2000/12/20/8359 be suspended, and that all [work already completed but not conforming to [that shown on the plans for Site Permit [Addendum No(s). 9817703/S-1 be removed by [the project sponsor.
[PUBLIC HEARING HELD & CLOSED FEB. 6, [2002.
[FOR FURTHER CONSIDERATION TODAY.

ACTION: Upon motion by President Chin, the Board voted 4-0-1 (Commissioner Saunders absent) to overrule the subject determination on condition that the appellants hire a color consultant so as to find the least intrusive color for the subject rooftop penthouse.

SPEAKERS: Laurence Kornfield, CBI, DBI, explained the Code requirements for stairways to the roof which are mandated by the State Code and said that DBI is presently drafting an administrative bulletin that will allow roof hatches in certain circumstances for roof access instead of penthouses. He described the costs of removing penthouses and installing hatches. Alice Barkley, attorney for the Appellants described the costs of the alternative and urged the Board to allow the penthouse to remain since it was required by the City and meets the Codes. Sue Hestor, attorney for the neighbors said she couldn't respond to many of the issues since she was not permitted to make a site visit as the Commissioners and the Chief Inspectors were. She showed photos of the penthouse and she gave a history of the case and the efforts made by the neighbors to have the penthouse removed, including a meeting with a Supervisor a year ago.

(6) **APPEAL NO. 01-222**

BRENDAN LALOR, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING COMMISSION DISAPPROVAL

§ 14 Principals: SHUI HUNG & SO CHUN LEE

[1117 Judah Street.
[Appealing denial on November 20, 2001, of
[Site Permit to Erect a Building (four-story, two-
[unit residential building with 1,575sf of ground
[floor area).
[APPLICATION NO. 2000/10/16/3112S
[PUBLIC HEARING HELD MAR. 13, 2002.
[FOR FURTHER CONSIDERATION TODAY.

ACTION: Upon motion by President Chin, the Board voted 4-0-1 (Commissioner Saunders absent) to continue the matter to May 29, 2002.

SPEAKERS: None

(7) **APPEAL NO. 01-225**

JIMMY LEE, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING COMMISSION DISAPPROVAL

§ 14 Principals: None.

[2 Upland Drive.
[Appealing a denial, on November 14, 2001, of
[Site Permit to Alter a Building (alter front entry,
[add vertical story over existing building).
[APPLICATION NO. 2000/12/14/7910S.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner McInerney, the Board voted 4-0-1 (Commissioner Saunders) to reschedule the matter to May 22, 2002.

SPEAKERS: Lawrence Badiner, ZA, described the project and why the Planning Commission disapproved it and agreed that continuing the case to May 22nd would allow time for his staff to review the revised plans. He said Section 3ll notification may be necessary for the revised plans.

(8) **APPEAL NO. 01-243**

ANDREW & STACEY
FROST, ROBERT & MARIAN
HEATH, KAREN LARSEN, MICHAEL
SHANE, RONNA STONE, TIMOTHY
SMITH, VERNE & ROBERT DOXEY,
DAVID IRWIN, SUSAN GAMBLE,
DEBORAH & H. BOYD SEYMOUR,
and NANCY & ROGER BOAS, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[3352 Washington Street.
[Appealing a determination dated December
[17, 2001, addressed to Alice Barkley, attorney
[for owners John & Shirley Oswald, that the
[proposed roof structure on the subject
[property is a dormer and that it complies with
[Planning Code § 261 in terms of area
[limitation requirements for permitted
[exceptions, and that the proposed roof height
[is code complying.
[APPLICATION NO. 2000/06/16/2818.
[FOR HEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted 5-0 to reschedule the matter to June 5, 2002.

SPEAKERS: Alice Barkley, attorney for the owners/determination holders, said she accepted rescheduling the hearing to the Call of the Chair and she understood the Discretionary Review hearing by the Planning Commission is scheduled for mid May. Laurence Badiner, ZA, said that the DR hearing is scheduled for May 16.

James Ruben, attorney for the Appellants, said that continuing the appeal to the Call of the Chair is acceptable to his clients. The appeal was rescheduled to June 5, 2002.

ITEMS (9A) & (9B) WERE HEARD TOGETHER:

(9A) **APPEAL NO. V02-014**

CHI NGUYEN, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[626 – 29th Street.
[Appealing conditions of a Front Setback [Variance (construct a new 3-story single family [dwelling in the required front setback) granted [on January 23, 2002.
[VARIANCE CASE NO. 2001.0146
[FOR HEARING TODAY.

(9B) **APPEAL NO. 02-028**

CHI NGUYEN, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING COMMISSION DISAPPROVAL

[626 – 29th Street.
[Appealing the denial on February 25, 2002, of [Permit to Erect a Building (3-story single family [dwelling with 1000sf of ground floor area).
[APPLICATION NO. 2000/08/10/7566.
[FOR HEARING TODAY.

§ 14 Principals: THERESA ROBBERSON

ACTION: Upon motion by commissioner Cullum, the Board voted 4-0-1 (Commissioner Saunders absent) to continue the matter to May 22, 2002 with the public hearing closed.

SPEAKERS: Robert Mintz, architect for the Appellant, said he understood he needs four votes but wanted to go forward with the hearing. Lawrence Badiner, ZA, explained his variance conditions and the decision of the Commission for removal of the rear cottage for the reason that it appears the cottage will someday be converted into a separate dwelling unit in violation of the density requirements of the neighborhood. He said removal of the cottage is a trade-off for permission to build in the required front setback area. Robert Mintz explained that his client wants to keep the cottage as a home for her mother who can't live with her in the main house at the front and needs separate space where the appellant can care for her. He said all five requirements are met for the variance. Chi Nguyen, the Appellant explained her need for the cottage to keep her mother.

PUBLIC COMMENT FOR ZA: Josie Iselin said she and the neighbors felt the decisions were correct and fair. Removal of the cottage will add to the openness of the block for all the neighbors. Allowing two buildings on the lot is a bad precedent. Dr. Winston Vaughn, the immediate neighbor, explained that he recently bought his home and intended to create a beautiful garden which will be enhanced if the cottage is removed. He said that there is no evidence that the Appellant's mother has any medical problems and therefore needs to stay in the cottage. He said the Appellant wants to eat her cake and have it too.

PUBLIC COMMENT BY CONCERNED NEIGHBOR: Richard Peterson of 537 Valley said that the cottage is a retaining wall for his property which abuts the cottage.

There being no further business, President Chin adjourned the meeting at 9:17 p.m.

Arnold Y. K. Chin, President

Robert H. Feldman, Executive Secretary

Transcripts of these hearings can be obtained from Esteller Bruihl, the Official Court Reporter, Telephone 576-0700

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Main Branch, 5th Floor
Attn: Terry Gwiazdowsky

BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

REGULAR MEETING - WEDNESDAY, APRIL 24, 2002

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

DOCUMENTS DEPT.

APR 19 2002

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(2) **COMMISSIONERS COMMENTS & QUESTIONS:**

04-19-02P03:12 RCVD

(3) **ADDENDUM ITEMS:**

ITEM A: 109 Peabody Street. Letter from Eric Lifschitz, Attorney for Kathy Tang, Requestor, asking that the Board take jurisdiction over Building Permit Application No. 2001/11/30/4237. Permit Holder: Phat Hong. Project: remove illegal kitchen and bath; remove non-loading walls and convert illegal unit to storage.

Date Permit Issued:	Nov. 30, 2001
Last Day to Appeal:	Dec. 15, 2001
Date Jurisdiction Request Received:	April 5, 2002

ITEM B: 3967 Clay Street. Letter from Allan Low, Attorney for the Clay Street Homeowner's Association, Requestor, asking that the Board take jurisdiction over Building Permit Application No. 2002/02/27/0222. Permit Holder: David Seetapun. Project: remove and replace wall finishes and fixtures in master and guest bathrooms.

Date Permit Issued:	Feb. 27, 2002
Last Day to Appeal:	Mar. 14, 2002
Date Jurisdiction Request Received:	April 8, 2002

(4) **APPEAL NO. V01-228**

ANTHONY CASTELLUCCI, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[68-72, 74-78 & 70A-76A Waller Street.
[Appealing denial on November 26, 2001, of
[Rear Yard, Usable Open Space, Lot Area &
[Frontage Requirement Variances (create new
[third lot from the rear portions of the two
[existing lots).
[VARIANCE CASE NO. 2001.0738V
[PUBLIC HEARING HELD FEB. 27, 2002.
[FOR FURTHER CONSIDERATION TODAY.

(5) **APPEAL NO. 02-031**

DAVID STADTNER, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent

[355 Fulton Street.
[Appealing denial on March 4, 2002, of Permit to
[Alter a Building (correct record to indicate 41
[existing units).
[APPLICATION NO. 2002/03/04/0501.
[FOR HEARING TODAY.

ITEMS (6A) & (6B) SHALL BE HEARD TOGETHER:

(6A) **APPEAL NO. 02-032**

RICHARD OLNESS, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent

[3331 Jackson Street.
[Protesting issuance on February 19, 2002, to
[Robert Devlin, Permit to Alter a Building
[(retaining wall, fence, lattice, brickwork at rear
[yard, provide drainage).
[APPLICATION NO. 2002/02/19/9469.
[FOR HEARING TODAY.

(6B) **APPEAL NO. 02-044**

RICHARD OLNESS, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[3331 Jackson Street.
[Protesting issuance on March 14, 2002, to
Robert Devlin, Permit to Alter a Building
[(retaining wall, fence, lattice, brick work).
[APPLICATION NO. 2002/03/14/1440.
[FOR HEARING TODAY.

(7) **APPEAL NO. 02-033**

GERARDO HERNANDEZ, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[3165 Mission Street.
[Appealing a Notice of Violation dated February [25, 2002, addressed to Leticia Luna, that the [subject property is being used as a tow service [lot in violation of § 712.59 of the Planning Code, [which also prohibits the establishment of an [auto repair use in an NC-3 zoning district.
[FOR HEARING TODAY

(8) **APPEAL NO. 01-216**

AI-REN LEI, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[480 – 5th Avenue.
[Appealing a Notice of Violation dated October [29, 2001, that the non-complying ground floor [level at the rear of the subject property has [been removed and replaced without proper [permits, in violation of Planning Code § 188.
[FOR HEARING TODAY.

ITEMS (9A) & (9B) SHALL BE HEARD TOGETHER:

(9A) **APPEAL NO. 02-026**

ADCO OUTDOOR ADVERTISING, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. REQUEST FOR SUSPENSION

[74 Otis Street.
[Appealing the suspension on February 12, [2002, of Permit to Erect a Sign (single [faced wall sign 46' X 42' with 1,932sf of [total surface area).
[APPLICATION NO. 9818016.
[FOR HEARING TODAY.

(9B) **APPEAL NO. 02-027**

ADCO OUTDOOR ADVERTISING, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. REQUEST FOR SUSPENSION

[74 Otis Street.
[Appealing the suspension on February 12, [2002, of Permit to Erect a Sign (single [faced wall sign 26' X 24' with 624sf of total [surface area).
[APPLICATION NO. 2000/04/26/8334.
[FOR HEARING TODAY.

(10) **APPEAL NO. 02-041**

PAMELA WIGET, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[2195 Green Street.
[Appealing a Notice of Violation dated March 6, [2002, addressed to Pamela Wiget, that the [subject property is being used for overnight [transient hotel accommodations in violation of [Planning Code § 209.2(d).
[FOR HEARING TODAY.

(11) **APPEAL NO. 01-236**

JEFFREY LITKE, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[679-689 Portola Drive.
[Appealing a Notice of Violation dated December [4, 2001, that a habitable bedroom and [bathroom fixtures exist in the 4th floor [penthouse structure which were re-established [without benefit of building permits, in violation of [Notice of Special Restrictions No. E008502 & [Planning Code § 260(b)(1)(B).
[FOR HEARING TODAY.

ADJOURNMENT.

Note: Each item on this agenda may include the following documents:

1. Appellant's statement and rebuttal brief.
2. Permit holder's response and rebuttal brief.
3. Department decision, permit, determination or resolution.
4. Public correspondence.

These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter. Please call 575-6880 if you have any questions concerning this agenda.

Date posted: April 18, 2002

MEMBERS OF THE BOARD OF APPEALS

ARNOLD Y.K. CHIN	PRESIDENT
JOHN E. MCINERNEY, III	VICE PRESIDENT
CAROLE S. CULLUM	COMMISSIONER
ALLAM M. EL QADAH	COMMISSIONER
SABRINA N. SAUNDERS	COMMISSIONER

EASTELLER BRUIHL - OFFICIAL COURT REPORTER 348-0050; THE PRESIDING OFFICER WILL CALL A RECESS AT 6:30 P.M. & WHENEVER NECESSARY FOR THE CONVENIENCE OF THE COURT REPORTER.

PROCEDURE AT HEARINGS

The order of presentation of an appeal shall be as follows: In the case of appeal of denials, revocations and suspensions the representatives of the department, board, commission or person from whose order the appeal is taken shall speak first and shall be allowed seven minutes for their presentation and three minutes for rebuttal.

The appellant whose permit has been denied, revoked or suspended shall be allowed seven minutes for oral argument and three minutes for rebuttal.

In the case of protest appeals, the protestor shall speak first and shall be allowed seven minutes to present oral argument and three minutes for rebuttal, and the permit holder shall be allowed seven minutes to present oral argument and three minutes for rebuttal. The Board may request a departmental response at its own discretion.

Other persons desiring to speak before the Board on an appeal may speak once for up to three minutes.

SPECIAL NOTES

Mailed notices of public hearings on appeals are sent to all parties at least five days prior to the date of hearing. In the event that a matter is continued to a specific date by the presiding officer and announced to the parties in the hearing room, no additional mailed notice will be sent. Please call the Board office at 575-6880 for scheduling or other information during regular business hours, or visit our website at www.ci.sf.ca.us/bdappeal/index.html.

Briefs are limited to twelve pages, excluding exhibits, which should be tabbed for easy reference.

The complete Rules of the Board are available for review at the Board office.

Material submitted by the public for Board review prior to a scheduled hearing before the Board, should be addressed to Arnold Y.K. Chin, President, and be received at the Board office, 1660 Mission Street, Room 3036, no later than 4:00 p.m. the Thursday (six days) prior to the scheduled public hearing. Persons unable to attend the scheduled public hearing may submit written comments regarding a calendared item to the Board office. Comments received before noon on the day of the hearing will be made a part of the official record and will be brought to the attention of the Board at the public hearing. For complete distribution to all Commissioners of the Board, necessary staff and case files, submit an original and ten copies.

Pursuant to Government Code Section 65009, if you challenge, in court, the approval of a variance or development permit, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Board of Appeals at, or prior to, the public hearing.

Calendared items are sometimes withdrawn or rescheduled to a later date prior to hearing, or are taken out of order to accommodate special needs. The Board urges all parties to be present in the hearing room from 5:00 p.m. so that everyone has an opportunity to participate in the relevant public hearing when it is called.

PROHIBITION OF SOUND-PRODUCING ELECTRONIC DEVICES

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

ACCESSIBILITY INFORMATION

American sign language interpreters and/or sound enhancement system will be available upon request by contacting Catherine Johnson at 575-6882 at least 72 hours prior to the hearing. Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call the accessibility hotline at 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals. The closest accessible BART station is the Civic Center station located at the intersection of Market, Hyde and Grove Streets. Accessible curbside parking has been designated at points along McAllister Street. Accessible MUNI lines serving City Hall are the 42 Downtown Loop, 9 San Bruno and 71 Haight/Noriega and the F line. Accessible MUNI Metro lines are the J, K, L, M, and N. For more information regarding MUNI accessible services, call (415) 923-6142.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force: Donna Hall, Sunshine Ordinance Task Force, City Hall, Room 409, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102-4683, Phone (415) 554-7724, fax (415) 554-7854, and e-mail Donna_Hall@ci.sf.ca.us. Copies of the Sunshine Ordinance can be obtained from the Clerk of the Sunshine Task Force, the San Francisco Public Library, and on the City's website at www.ci.sf.ca.us/bdsupvrs/sunshine.

LOBBYING ACTIVITY

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Campaign and Governmental Conduct Code § 2.100] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415) 581-2300; fax (415) 581-2317; web site www.sfgov.org/ethics.

COMMUNICATIONS

Note: Each item on this agenda may include the following documents:

1. Appellant's statement and rebuttal brief.
2. Permit holder's response and rebuttal brief.
3. Department decision, permit, determination or resolution.
4. Public correspondence.

These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter.

CITY AND COUNTY OF SAN FRANCISCO
Board of Appeals
Robert H. Feldman, Executive Secretary
1660 Mission Street, Room 3036
San Francisco, California 94103
(415) 575-6880

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

REGULAR MEETING - WEDNESDAY, APRIL 24, 2002

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

PRESENT: President Arnold Y. K. Chin, Vice President John McInerney, Commissioner Allam el Qadah.

Judith Boyajian, Deputy City Attorney for the City Attorney (DCA); Larry Badiner, Zoning Administrator, Planning Department; Rafael Torres-Gil, Senior Building Inspector, DBI; and Robert Feldman, Executive Secretary for the Board of Appeals; Official Court Reporter, Easteller Bruihl.

ABSENT: Carole S. Cullum, Sabrina N. Saunders.

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

SPEAKERS: None.

(2) **COMMISSIONERS COMMENTS & QUESTIONS:** President Chin asked the Deputy City Attorney for a report on the questions he posed at the last meeting regarding the status of the Board on July 1, 2002. Judith Boyajian, Deputy City Attorney reported that the Board's tenure ends at noon July 1, 2002 and none can be holdovers, though they may be appointed again under the new procedures of Prop. D by the Mayor or the President of the Board of Supervisors.

The Executive Secretary responding to Commissioner El Qadah's question explained the absence of Commissioner Saunders.

SPEAKERS: None.

(3) **ADDENDUM ITEMS:**

ITEM A: 109 Peabody Street. Letter from Eric Lifschitz, Attorney for Kathy Tang, Requestor, asking that the Board take jurisdiction over Building Permit Application No. 2001/11/30/4237. Permit Holder: Phat Hong. Project: remove illegal kitchen and bath; remove non-loading walls and convert illegal unit to storage.

Date Permit Issued:	Nov. 30, 2001
Last Day to Appeal:	Dec. 15, 2001
Date Jurisdiction Request Received:	April 5, 2002

ACTION: Upon motion by President Chin, the Board voted 3-0-2 (Commissioner Cullum and Commissioner Saunders absent) to reschedule the matter to June 12, 2002.

SPEAKERS: Eric Lifschitz, attorney for the requestor asked that a rescheduling be at the earliest date possible and agreed to June 12, 2002. Daniel Bornstein, attorney for the permit holder agreed to June 12, 2002.

ITEM B: 3967 Clay Street. Letter from Allan Low, Attorney for the Clay Street Homeowner's Association, Requestor, asking that the Board take jurisdiction over Building Permit Application No. 2002/02/27/0222. Permit Holder: David Seetapun. Project: remove and replace wall finishes and fixtures in master and guest bathrooms.

Date Permit Issued:	Feb. 27, 2002
Last Day to Appeal:	Mar. 14, 2002
Date Jurisdiction Request Received:	April 8, 2002

ACTION: Upon motion by President Chin, the Board voted 3-0-2 (Commissioner Cullum and Commissioner Saunders absent) to reschedule the matter to June 12, 2002.

SPEAKERS: Allan Low, attorney for the requestor, asked the Board to reschedule as soon as possible.

Ross Madden, attorney for the permit holder, agreed to having the matter rescheduled to June 12, 2002.

(4) **APPEAL NO. V01-228**

ANTHONY CASTELLUCCI, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[68-72, 74-78 & 70A-76A Waller Street.
[Appealing denial on November 26, 2001, of [Rear Yard, Usable Open Space, Lot Area & [Frontage Requirement Variances (create new [third lot from the rear portions of the two [existing lots).
[VARIANCE CASE NO. 2001.0738V
[PUBLIC HEARING HELD FEB. 27, 2002.
[FOR FURTHER CONSIDERATION TODAY.

ACTION: This matter was withdrawn by the appellant prior to hearing.

(5) **APPEAL NO. 02-031**

DAVID STADTNER, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent

[355 Fulton Street.
[Appealing denial on March 4, 2002, of Permit to
[Alter a Building (correct record to indicate 41
[existing units).
[APPLICATION NO. 2002/03/04/0501.
[FOR HEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted 3-0-2 (Commissioner Cullum and Commissioner Saunders absent) to reschedule the matter to May 8, 2002.

SPEAKERS: No speakers.

ITEMS (6A) & (6B) WERE HEARD TOGETHER:

(6A) **APPEAL NO. 02-032**

RICHARD OLNESS, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent

[3331 Jackson Street.
[Protesting issuance on February 19, 2002, to
[Robert Devlin, Permit to Alter a Building
[(retaining wall, fence, lattice, brickwork at rear
[yard, provide drainage).
[APPLICATION NO. 2002/02/19/9469.
[FOR HEARING TODAY.

(6B) **APPEAL NO. 02-044**

RICHARD OLNESS, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[3331 Jackson Street.
[Protesting issuance on March 14, 2002, to
Robert Devlin, Permit to Alter a Building
[(retaining wall, fence, lattice, and brickwork).
[APPLICATION NO. 2002/03/14/1440.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner McInerney, the Board voted 3-0-2 (Commissioner Cullum and Commissioner Saunders absent) to reschedule the matter to June 12, 2002.

SPEAKERS: Susan Olness, agent for the appellant agreed to the appeal being rescheduled to June 12, 2002.

(7) **APPEAL NO. 02-033**

GERARDO HERNANDEZ, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[3165 Mission Street.
[Appealing a Notice of Violation dated February [25, 2002, addressed to Leticia Luna, that the [subject property is being used as a tow service [lot in violation of § 712.59 of the Planning Code, [which also prohibits the establishment of an [auto repair use in an NC-3 zoning district.
[FOR HEARING TODAY

ACTION: Upon motion by President Chin, the Board voted 3-0-2 (Commissioner Cullum and Commissioner Saunders absent) to reschedule the matter to June 19, 2002.

SPEAKERS: Jeremy Paul, consultant for the Appellant, agreed to having the appeal rescheduled to June 19, 2002.

(8) **APPEAL NO. 01-216**

AI-REN LEI, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[480 – 5th Avenue.
[Appealing a Notice of Violation dated October [29, 2001, that the non-complying ground floor [level at the rear of the subject property has [been removed and replaced without proper [permits, in violation of Planning Code § 188.
[FOR HEARING TODAY.

ACTION: This matter was rescheduled to May 22, 2002 prior to hearing.

SPEAKERS: None.

ITEMS (9A) & (9B) WERE HEARD TOGETHER:

(9A) **APPEAL NO. 02-026**

ADCO OUTDOOR ADVERTISING, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. REQUEST FOR SUSPENSION

[74 Otis Street.
[Appealing the suspension on February 12, [2002, of Permit to Erect a Sign (single [faced wall sign 46' X 42' with 1,932sf of [total surface area).
[APPLICATION NO. 9818016.
[FOR HEARING TODAY.

(9B) **APPEAL NO. 02-027**

ADCO OUTDOOR ADVERTISING, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. REQUEST FOR SUSPENSION

[74 Otis Street.
[Appealing the suspension on February 12, [2002, of Permit to Erect a Sign (single [faced wall sign 26' X 24' with 624sf of total [surface area).
[APPLICATION NO. 2000/04/26/8334.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner El Qadah, the Board voted 3-0-2 (Commissioner Cullum and Commissioner Saunders absent) to reschedule the matter to June 12, 2002.

SPEAKERS: Joseph Forest, attorney for the Appellant agreed to a have the two appeals rescheduled to June 12, 2002.

(10) **APPEAL NO. 02-041**

PAMELA WIGET, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[2195 Green Street.
[Appealing a Notice of Violation dated March 6, [2002, addressed to Pamela Wiget, that the [subject property is being used for overnight [transient hotel accommodations in violation of [Planning Code § 209.2(d).
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner McInerney, the Board voted 3-0-2 (Commissioner Cullum and Commissioner Saunders absent) to reschedule the matter to May 8, 2002.

SPEAKERS: Jeremy Paul, consultant for the Appellant agreed to a rescheduling on May 8, 2002.

(11) **APPEAL NO. 01-236**

JEFFREY LITKE, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[679-689 Portola Drive.
[Appealing a Notice of Violation dated December [4, 2001, that a habitable bedroom and [bathroom fixtures exist in the 4th floor [penthouse structure which were re-established [without benefit of building permits, in violation of [Notice of Special Restrictions No. E008502 & [Planning Code § 260(b)(1)(B).
[FOR HEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted 3-0-2 (Commissioner Cullum and Commissioner Saunders absent) to reschedule the matter to June 12, 2002.

SPEAKERS: None

There was no public comment on any item.

There being no further business, President Chin adjourned the meeting at 5:34 P.M.

Arnold Y. K. Chin, President

Robert H. Feldman, Executive Secretary

Transcripts of these hearings can be obtained from Easteller Bruihl, the Official Court Reporter, Telephone 576-0700

BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

REGULAR MEETING - WEDNESDAY, MAY 8, 2002

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

(2) **COMMISSIONERS COMMENTS & QUESTIONS:**

(3) **ADDENDUM ITEMS:** None.

(4) **APPEAL NO. 02-031**

DAVID STADTNER, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent

[355 Fulton Street.
[Appealing denial on March 4, 2002, of Permit to [Alter a Building (correct record to indicate 41 [existing units).
[APPLICATION NO. 2002/03/04/0501.
[FOR HEARING TODAY.

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(5) **APPEAL NO. 02-041**

PAMELA WIGET, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[2195 Green Street.
[Appealing a Notice of Violation dated March 6, [2002, addressed to Pamela Wiget, that the [subject property is being used for overnight [transient hotel accommodations in violation of [Planning Code § 209.2(d).
[FOR HEARING TODAY.

(6) **APPEAL NO. 02-057**

LORENZO BOELITZ, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[3782 – 21st Street.
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[APPLICATION NO. 2001/02/27/3033.
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ADJOURNMENT.

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Date posted: May 2, 2002

MEMBERS OF THE BOARD OF APPEALS

ARNOLD Y.K. CHIN	PRESIDENT
JOHN E. MCINERNEY, III	VICE PRESIDENT
CAROLE S. CULLUM	COMMISSIONER
ALLAM M. EL QADAH	COMMISSIONER
SABRINA N. SAUNDERS	COMMISSIONER

EASTELLER BRUIHL - OFFICIAL COURT REPORTER 348-0050; THE PRESIDING OFFICER WILL CALL A RECESS AT 6:30 P.M. & WHENEVER NECESSARY FOR THE CONVENIENCE OF THE COURT REPORTER.

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In the case of protest appeals, the protestor shall speak first and shall be allowed seven minutes to present oral argument and three minutes for rebuttal, and the permit holder shall be allowed seven minutes to present oral argument and three minutes for rebuttal. The Board may request a departmental response at its own discretion.

Other persons desiring to speak before the Board on an appeal may speak once for up to three minutes.

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ACCESSIBILITY INFORMATION

American sign language interpreters and/or sound enhancement system will be available upon request by contacting Catherine Johnson at 575-6882 at least 72 hours prior to the hearing. Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call the accessibility hotline at 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals. The closest accessible BART station is the Civic Center station located at the intersection of Market, Hyde and Grove Streets. Accessible curbside parking has been designated at points along McAllister Street. Accessible MUNI lines serving City Hall are the 42 Downtown Loop, 9 San Bruno and 71 Haight/Noriega and the F line. Accessible MUNI Metro lines are the J, K, L, M, and N. For more information regarding MUNI accessible services, call (415) 923-6142.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force: Donna Hall, Sunshine Ordinance Task Force, City Hall, Room 409, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102-4683, Phone (415) 554-7724, fax (415) 554-7854, and e-mail Donna_Hall@ci.sf.ca.us. Copies of the Sunshine Ordinance can be obtained from the Clerk of the Sunshine Task Force, the San Francisco Public Library, and on the City's website at www.ci.sf.ca.us/bdsupvrs/sunshine.

LOBBYING ACTIVITY

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Campaign and Governmental Conduct Code § 2.100] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415) 581-2300; fax (415) 581-2317; web site www.sfgov.org/ethics.

COMMUNICATIONS

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CITY AND COUNTY OF SAN FRANCISCO
Board of Appeals
Robert H. Feldman, Executive Secretary
1660 Mission Street, Room 3036
San Francisco, California 94103
(415) 575-6880

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Board of Appeals

May 08, 2002

BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES - WEDNESDAY, MAY 8, 2002

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

PRESENT: President Arnold Y. K. Chin, Commissioner Carole Cullum, Commissioner Allam el Qadah.

Judith Boyajian, Deputy City Attorney for the City Attorney (DCA); Larry Badiner, Zoning Administrator, Planning Department; Rafael Torres-Gil, Senior Building Inspector, DBI; and Robert Feldman, Executive Secretary for the Board of Appeals; Official Court Reporter, Easteller Bruihl.

ABSENT: Vice President John McInerney, Commissioner Sabrina Saunders.

PUBLIC COMMENT: At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

Tim Colen of the Edgehill Way Homeowners Association invited the Commissioners to make a site visit to his neighborhood in preparation for the hearing next week for Appeals 02-037 and 02-038 for the properties at 315 and 319 Edgehill Way.

Jeremy Paul requested an earlier hearing for an appeal filed may 8 and scheduled for July 10. The subject property is at 3636 Jackson Street. He said the 45th day from filing is during mid-June. He would accept June 19.

(2) COMMISSIONERS COMMENTS & QUESTIONS:

SPEAKERS: President Chin discussed the possibility of the Board having to suspend its rules regarding times for presentation of testimony for the long agendas until the end of the fiscal year June 30. He asked staff to consider alerting parties about

the Board's ability to suspend its rules under certain circumstances. He explained to the audience that with only three Commissioners present no action could be taken except to continue appeals to later meetings.

ADDENDUM ITEMS: None.

(4)

APPEAL NO. 02-031

DAVID STADTNER, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,

Respondent

[355 Fulton Street.
[Appealing denial on March 4, 2002, of Permit to [Alter a Building (correct record to indicate 41 [existing units).
[APPLICATION NO. 2002/03/04/0501.
[FOR HEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted 3-0-1 (Vice President McInerney & Commissioner Saunders absent) to continue the matter to May 22, 2002, with the public hearing closed.

SPEAKERS: Laurence Kornfield, CBI, DBI, described the permit history of the building which was apparently built as forty units with a manager's unit in the basement, not an unusual configuration. Lawrence Badiner, ZA, said he thought that Mr. Kornfield's analysis was probably correct but that seven permits show it as a 40-unit building, not a 41-unit building. In response to a Board question, Mr. Kornfield said that the recent increase in these kinds of appeals is probably due to the diligence of the housing inspector.

David Stadtner, Appellant, said that the building was constructed in 1926 as forty units plus a manager's unit, which was routinely done in those days. There are forty-one bathrooms in the building and all the units are studios. The problem here was caused by a clerical error which dropped the manager's unit by mistake.

No public comment for either side.

(5)

APPEAL NO. 02-041

PAMELA WIGET, Appellant (s)
vs.
ZONING ADMINISTRATOR, Respondent

[2195 Green Street.
[Appealing a Notice of Violation dated March 6, [2002, addressed to Pamela Wiget, that the [subject property is being used for overnight [transient hotel accommodations in violation of [Planning Code § 209.2(d).
[FOR HEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted 3-0-1 (Vice President McInerney & Commissioner Saunders absent) to continue the matter to May 22, 2002, with the public hearing closed.

SPEAKERS: Lawrence Badiner explained that the subject unit is being used as a hotel under Planning Code standards. He said it is operated like a bed and breakfast, but the City realizes no hotel tax from the use as it would from a legal hotel. The room is used as a commercial use and it is not allowed in the residential district. Jeremy Paul, consultant for the appellant, said that the CC &R's clearly allow this type of use and that the condo owners in the building knew of or should have know of his client's use of the penthouse room for paying guests. He said that what was needed was specific condition's imposed that will protect the neighbors from noise or other problems. He said the room being rented is not connected to the unit below and that this is not a bed and breakfast operation since no food is offered or served to occupants. He added that all over the City homeowners rent out rooms by the day, week or month. The Planning Code sets forth conditions under which certain uses can be conducted in residential districts, but there are no lines drawn in the Code for this situation. No hotel tax is paid because the room is just a part of the residential unit.

PUBLIC COMMENT FOR ZONING ADMINISTRATOR:

Greg Scott of the condominium association said the room is a hotel if it is rented for less than a month at a time. He said the pentroom is deeded to the unit but is not a part of it. The room is not a residential use, but rather a business. Bruce Miller, speaking for the neighbors said he lives next to the Sherman House and knows how annoying it can be with the noise even from a legal bed and breakfast. He said guests are frustrated by lack of parking spaces and they have noisy visitors. He is outraged by the Appellant's use of the pentroom in violation of the Planning Code. Keith Hoang says he lives in Unit 2 and that he is bothered by the fact there is only one staircase and entrance to the building; there is no separate stair and entrance for the pentroom. When he comes home there are strangers waiting to get inside and they insist that he let them in. Also he is concerned with the security issue presented by the guests leaving the front door open while they get baggage from their car. Tom McMahon, an owner of one of the ten condos in the building. He is most concerned with the security issues of having strangers using the pentroom. Also their privacy is compromised as well as the marketability of their units. Judy Blondolillo said she lives in Unit 4 and is concerned about guests with keys to building. She is disturbed by the sound of people bringing luggage up the stairs and bumping the walls. She said all the occupants of the building know each other and the paying guests are obvious and inappropriate. Courtney Clark said she has owned her building at 2175 Green Street since 1983. She did a history of the subject building when it was condo'd and there was an agreement that the top room would not be used as a unit, just as space for a hot tub for the owners of the top unit. It was never to be an occupied room. Elizabeth Hills one of the owners said she brought her unit as an investment and the commercial use of the pentroom

reduces the value of her unit. James Milway said he lives in the adjacent building just ten feet from the pentroom's deck and his privacy is bothered because there are strangers looking into his bedroom from the Appellant's desk. Julie Riegal said she gets calls from other units complaining about noise and traffic caused by guests. And the building's fire insurance is jeopardized.

PUBLIC COMMENT FOR APPELLANT:

Elsie Schmidt said that the problems could all be worked out if the people could get together. She thinks the operation needs conditions or regulations under which to operate so that the other condo owners and the neighbors won't be bothered by the guests. A code of Standards is needed. Jean Perry said she is a friend of the Appellant and an innkeeper on Green Street. The Appellant calls on her to take guests that she can't accommodate. She thinks the Appellant is a wonderful person. The condo owners are seeking revenge against the Appellant. Tammy Anderson, a property manager and a friend of the Appellant, said he has staying in the room many times and at no charge. He has been let into the building many times and has attended many dinner parties there. Bruce Adams, a friend of the Appellant, said that he and his wife have stayed in the room many times at no charge and that there is no evidence of any service being provided to guests, not even coffee. It is just a room. They even cleaned the room themselves. He thought the stair problem is common in the City. If unit were to be rented to a family with children the noise could be far worse that that created by guests. Diana Akins Hausmann said that the appellant sent her people looking for a real bed and breakfast. She has come to dinner parties and it was clear that the Appellant was concerned about not disturbing the neighbors or other condo owners. Dennis Beckman said he has a store nearby and he supports the Appellant and the current use of the room.

(6)

LORENZO BOELITZ, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,

Respondent
PLANNING DEPT. APPROVAL

APPEAL NO. 02-057

[3782 – 21st Street.
[Protesting issuance on March 22, 2002, to [Laurie Gottlieb, Permit to Alter a Building [(fence, gate, planters, replace roof with new [configuration over porch).
[APPLICATION NO. 2001/02/27/3033.
[FOR HEARING TODAY.

ACTION: This matter was withdrawn by the appellant prior to hearing.

SPEAKERS: *None.*

There being no further business, President Chin adjourned the meeting at 6:17 p.m.

Arnold Y. K. Chin, President Robert H. Feldman, Executive Secretary

Transcripts of these hearings can be obtained from Esteller Bruihl, the Official Court Reporter, Telephone 576-0700.

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

REGULAR MEETING - WEDNESDAY, MAY 15, 2002

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

(2) **COMMISSIONERS COMMENTS & QUESTIONS:**

(3) **ADDENDUM ITEMS:**

ITEM A: 1479 – 3rd Avenue Letter from Larry Badiner, Zoning Administrator, requesting rehearing of Appeal 01-196, Wydler vs. ZA, decided Jan. 30, 2002. Upon motion by Vice President McInerney, the Board voted 4-0-1 (Commissioner Saunders absent) to overrule the subject determination and to adopt the findings submitted by the appellant's attorney. Appellant: Aton Wydler. Determination: that use of the subject property as a 4-unit residential building is not permitted under the Planning Code, and is not considered to be a legal non-conforming use under Planning Code Sections 180 through 185.

ITEM B: Taxicab Medallion No(s). 109 & 138. Letter from Mark Gruberg, agent for appellants, requesting rehearing of Appeal No(s). 02-018 & 02-019, UTW et al vs. Taxi Commission, decided April 3, 2002. Upon motion by Vice President McInerney, the Board voted 4-1 (Commissioner Cullum dissented) to dismiss the matter due to lack of subject matter jurisdiction, and directed staff to approve the request for refund of appeal fees. Medallion Holder(s): John Lazar.

(4) **CONSENT ITEMS:** With the consent of the Department of Building Inspection, the Board will proceed to a vote without testimony to reduce the penalty (investigation fee) to two times the regular fee as provided for in the Building Code. Without consent the Board will take testimony and then decide the appeal.

(4A) **APPEAL NO. 02-035**

KIRK ENDRES & ROBIN ENDRES, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[944-946 Page Street.
[Appeal for refund of penalty imposed on March
[13, 2002, for work done without a permit.
[APPLICATION NO. 2002/02/26/0097.
[FOR HEARING TODAY.

ITEMS (5A) & (5B) SHALL BE HEARD TOGETHER:

(5A) **APPEAL NO. 02-055**

STANLEY CHOW, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING COMMISSION DISAPPROVAL

§ 14 Principal(s): N/A (Staff Initiated DR)

[1323 – 41st Avenue.
[Appealing denial on March 29, 2002, of Permit
[to Demolish a Building (two-story building,
[20 feet 6 inches in height with 867sf of ground
[floor area).
[APPLICATION NO. 2001/01/24/0455.
[FOR HEARING TODAY.

(5B) **APPEAL NO. 02-056**

STANLEY CHOW, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING COMMISSION DISAPPROVAL

§ 14 Principal(s): N/A (Staff Initiated DR)

[1323 – 41st Avenue.
[Appealing denial on March 29, 2002, of Site
[Permit to Erect a Building (four-story, two-uni
[residential building with 1,667sf of ground floo
[area).
[APPLICATION NO. 2001/01/24/0457S.
[FOR HEARING TODAY.

(6) **APPEAL NO. 02-040**

SOMARTS CULTURAL CENTER, Appellant(s)
vs.
POLICE DEPARTMENT, Respondent

[934 Brannan Street.
[Appealing the expiration on March 4, 2002, o
[the conditional grant of Place of Entertainmen
& Dance Hall Keeper Permits.
[FOR HEARING TODAY.

(7) **APPEAL NO. 01-175**

JACKIE HOLLAND, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[271 Cumberland Street #5.
[Protesting issuance on September 24, 2001, t
[Chuck Louden, Permit to Alter a Buildin
[(comply with NOV, replacement roof deck, 2X
[sleepers on asphalt roof (legalize existin
[deck).
[APPLICATION NO. 2001/09/24/9018.
[FOR HEARING TODAY.

(8) **APPEAL NO. 01-241**

RICHARD & CARRIE LANE, TERRY BOGART, & PEGGY MULLIN-BOGART, Appellant(s)

vs.

ZONING ADMINISTRATOR, Respondent

[1001-1005 Market Street.
[Appealing a determination dated December [11, 2001, that the proposal to convert existing [office suites to artist work spaces with [accessory residential space is prohibited under [Planning Code § 204.4(b).
[FOR HEARING TODAY.

(9) **APPEAL NO. 02-036**

GABRIEL SANCHEZ & LORENZO AVIGNONI dba "MONARCH SCOOTERS", Appellant(s)

vs.

ZONING ADMINISTRATOR, Respondent

[1684 – 15th Street.
[Appealing a determination dated Feb. 26, [2002, addressed to Gabriel Sanchez & [Lorenzo Avignoni, that Planning Code [§ 726.61 does not allow the use of the subject [property building for sale of motor scooters, [automotive sales or rental as a principal use [within the Valencia Neighborhood Commercial [District (NCD).
[FOR HEARING TODAY.

ITEMS (10A) & (10B) SHALL BE HEARD TOGETHER:

(10A) **APPEAL NO. 02-037**

FOREST VIEW LLC, Appellant(s)

vs.

DEPT. OF BUILDING INSPECTION, Respondent

PLANNING COMMISSION DISAPPROVAL

§ 14 Principal(s): EDGEHILL WAY HOMEOWNER'S ASSOC.

[315 Edgehill Way.
[Appealing denial on March 13, 2002, of Site [Permit to Erect a Building (four-story single [family house with 1,500sf of ground floor area).
[APPLICATION NO. 9805711S.
[FOR HEARING TODAY.

(10B) **APPEAL NO. 02-038**

FOREST VIEW LLC, Appellant(s)

vs.

DEPT. OF BUILDING INSPECTION, Respondent

PLANNING COMMISSION DISAPPROVAL

§ 14 Principal(s): EDGEHILL WAY HOMEOWNER'S ASSOC.

[319 Edgehill Way.
[Appealing denial on March 13, 2002, of Site [Permit to Erect a Building (four-story single [family house with 1,500sf of ground floor area).
[APPLICATION NO. 9805710S.
[FOR HEARING TODAY.

(11) **APPEAL NO. 02-043**

WILLIAM AUSSERESSES, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[2646 Hyde Street.
[Protesting the issuance on Feb. 28, 2002, to [Philip and Marla Fernandez, Permit to Alter a [Building (construct deck, closet, half bath, and [wet bar on 3rd floor only).
[APPLICATION NO. 2001/11/20/3590.
[FOR HEARING TODAY.

(12) **APPEAL NO. 02-045**

DAVID KARLAK, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

4516 – 20th Street.
[Protesting issuance on March 4, 2002, to [K. Welsh & W. Plautz, Site Permit to Erect a [Building (four-story single family dwelling with [1000sf of ground floor area).
[APPLICATION NO. 2001/01/16/9843S.
[FOR HEARING TODAY.

(13) **APPEAL NO. 02-051**

1001 CALIFORNIA STREET HOMEOWNERS ASSOCIATION, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[1001 California Street # 9R.
[Appealing a determination dated March 6, [2002, addressed to Coblentz LLP c/o Tay Via & [America Frontier Enterprises c/o Adam Wong, [that the restaurant/bar use at the subject [property was not abandoned for longer than 3 [years, and that its re-establishment would not [require a new conditional use (CU) [authorization by the Planning Commission.
[FOR HEARING TODAY.

(14) **APPEAL NO. 02-053**

OFELIA LULE, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[122 Highland Avenue.
[Protesting issuance on March 8, 2002, to John [Driscoll & Ounkeo Chant, Permit to Alter a [Building (convert illegal unit in rear cottage to [storage; remove kitchen and bath).
[APPLICATION NO. 2002/03/08/0920.
[FOR HEARING TODAY.

(15) **APPEAL NO. V02-011**

DIAMOND HEIGHTS COMMUNITY ASSOCIATION, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[47-75 Topaz Way.
[Protesting the granting on January 11, 2002, [to the Topaz Way Homeowner's Association, [of Rear Yard Variance (subdivide an existing [30,024sf lot into two separate lots).
[VARIANCE CASE NO. 2001.0941V.
[FOR HEARING TODAY.

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Date posted: May 9, 2002

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The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

ACCESSIBILITY INFORMATION

American sign language interpreters and/or sound enhancement system will be available upon request by contacting Catherine Johnson at 575-6882 at least 72 hours prior to the hearing. Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call the accessibility hotline at 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals. The closest accessible BART station is the Civic Center station located at the intersection of Market, Hyde and Grove Streets. Accessible curbside parking has been designated at points along McAllister Street. Accessible MUNI lines serving City Hall are the 42 Downtown Loop, 9 San Bruno and 71 Haight/Noriega and the F line. Accessible MUNI Metro lines are the J, K, L, M, and N. For more information regarding MUNI accessible services, call (415) 923-6142.

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Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force: Donna Hall, Sunshine Ordinance Task Force, City Hall, Room 409, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102-4683, Phone (415) 554-7724, fax (415) 554-7854, and e-mail Donna_Hall@ci.sf.ca.us. Copies of the Sunshine Ordinance can be obtained from the Clerk of the Sunshine Task Force, the San Francisco Public Library, and on the City's website at www.ci.sf.ca.us/bdsupvrs/sunshine.

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Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Campaign and Governmental Conduct Code § 2.100] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415) 581-2300; fax (415) 581-2317; web site www.sfgov.org/ethics.

COMMUNICATIONS

Note: Each item on this agenda may include the following documents:

1. Appellant's statement and rebuttal brief.
2. Permit holder's response and rebuttal brief.
3. Department decision, permit, determination or resolution.
4. Public correspondence.

These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter.

CITY AND COUNTY OF SAN FRANCISCO
Board of Appeals
Robert H. Feldman, Executive Secretary
1660 Mission Street, Room 3036
San Francisco, California 94103
(415) 575-6880

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES- WEDNESDAY, MAY 15, 2002

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

Present: President Arnold Y.K. Chin, Vice President John McInerney, Commissioner Carole Cullum, Commissioner Allam el Qadah, Commissioner Sabrina Saunders.

Judith Boyajian, Deputy City Attorney for the City Attorney (DCA); Larry Badiner, Zoning Administrator, Planning Department; Rafael Torres-Gil, Senior Building Inspector, DBI; and Robert Feldman, Executive Secretary for the Board of Appeals; Official Court Reporter, Easteller Bruihl.

Absent: None.

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

SPEAKERS: None.

(2) **COMMISSIONERS COMMENTS & QUESTIONS:**

SPEAKERS: Commissioner Saunders thanked the Board for their understanding during the past month as she attended her brother during his final illness. Commissioner Chin asked for the cooperation of the public during the evening's long calendar and the long calendars for the meetings until June 26.

(3) **ADDENDUM ITEMS:**

ITEM A: 1479 – 3rd Avenue. Letter from Larry Badiner, Zoning Administrator, requesting rehearing of Appeal 01-196, Wydler vs. ZA, decided Jan. 30, 2002. Upon motion by Vice President McInerney, the Board voted 4-0-1 (Commissioner Saunders absent) to overrule the subject determination and to adopt the findings submitted by the appellant's attorney. Appellant: Aton Wydler. Determination: that use of the subject property as a 4-unit residential building is not permitted under the Planning Code, and is not considered to be a legal non-conforming use under Planning Code Sections 180 through 185.

ACTION: Matter rescheduled to May 29, 2002 prior to the meeting.

ITEM B: Taxicab Medallion No(s). 109 & 138. Letter from Mark Gruberg, agent for appellants, requesting rehearing of Appeal No(s). 02-018 & 02-019, UTW et al vs. Taxi Commission, decided April 3, 2002. Upon motion by Vice President McInerney, the Board voted 4-1 (Commissioner Cullum dissented) to dismiss the matter due to lack of subject matter jurisdiction, and directed staff to approve the request for refund of appeal fees. Medallion Holder(s): John Lazar.

ACTION: Upon motion by Vice President McInerney, the Board voted 4-1 (Commissioner Cullum dissented) to deny the request for rehearing.

SPEAKERS: Mark Gruberg of the UTW, appellant, asked the Board to grant a rehearing so that his side can address the issue of jurisdiction and submit materials concerning previous appeals of a related nature. Inspector Suslow, representing the Taxi Commission, said he has no position on the question of rehearing. Philip Ward, attorney for the medallion holder, said that in his view no new evidence was being offered and the appellant had had an opportunity to address the jurisdiction issue and hadn't done so.

(4) **CONSENT ITEMS:** With the consent of the Department of Building Inspection, the Board will proceed to a vote without testimony to reduce the penalty (investigation fee) to two times the regular fee as provided for in the Building Code. Without consent the Board will take testimony and then decide the appeal.

(4A) **APPEAL NO. 02-035**

KIRK ENDRES & ROBIN ENDRES, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[944-946 Page Street.
[Appeal for refund of penalty imposed on March
[13, 2002, for work done without a permit.
[APPLICATION NO. 2002/02/26/0097.
[FOR HEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted 5-0 to reduce the subject penalty to 2 times the regular fee.

SPEAKERS: None.

ITEMS (5A) & (5B) SHALL BE HEARD TOGETHER:

(5A) **APPEAL NO. 02-055**

STANLEY CHOW, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING COMMISSION DISAPPROVAL

§ 14 Principal(s): N/A (Staff Initiated DR)

[1323 – 41st Avenue.
[Appealing denial on March 29, 2002, of Permit
[to Demolish a Building (two-story building,
[20 feet 6 inches in height with 867sf of ground
[floor area).
[APPLICATION NO. 2001/01/24/0455.
[FOR HEARING TODAY.

(5B) **APPEAL NO. 02-056**

STANLEY CHOW, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING COMMISSION DISAPPROVAL

§ 14 Principal(s): N/A (Staff Initiated DR)

[1323 – 41st Avenue.
[Appealing denial on March 29, 2002, of Site [Permit to Erect a Building (four-story, two-unit [residential building with 1,667sf of ground floor [area).
[APPLICATION NO. 2001/01/24/0457S.
[FOR HEARING TODAY.

ACTION: Matter rescheduled to June 19, 2002 (no vote).

SPEAKERS: None.

(6) **APPEAL NO. 02-040**

SOMARTS CULTURAL CENTER, Appellant(s)
vs.
POLICE DEPARTMENT, Respondent

[934 Brannan Street.
[Appealing the expiration on March 4, 2002, of [the conditional grant of Place of Entertainment & Dance Hall Keeper Permits.
[FOR HEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted 5-0 to reschedule the matter to June 19, 2002.

SPEAKERS: Sergeant William Coggan, S.F.P.D., said that a new permit application has been filed and that the noise officer and the permit officer were present to respond to Board questions. He added that the Department had bent over backwards to allow the use for as long as possible. Jeremy Paul, Consultant to the Appellant, explained the nature of the appeal and its funding by the Art Commission. He described his view of the Department's actions against all places of entertainment in the district.

(7) **APPEAL NO. 01-175**

JACKIE HOLLAND, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[271 Cumberland Street #5.
[Protesting issuance on September 24, 2001, to [Chuck Louden, Permit to Alter a Building [(comply with NOV, replacement roof deck, 2X4 [sleepers on asphalt roof (legalize existing [deck).
[APPLICATION NO. 2001/09/24/9018.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Cullum, the Board voted 5-0 to revoke the subject permit.

SPEAKERS: Laurence Kornfield, CBI, DBI, explained the Building Code provision on applicants for permits being owners of the property or their agents and that if the applicant isn't an owner or agent that the permit would be revoked or suspended. Jackie Holland, Appellant, explained the TIC

nature of the ownership of the building and said there wasn't a roof deck before and how the deck bothers her since her bedroom is below it.

(8) **APPEAL NO. 01-241**

RICHARD & CARRIE LANE, TERRY BOGART, & PEGGY MULLIN-BOGART, Appellant(s)

vs.

ZONING ADMINISTRATOR, Respondent

[1001-1005 Market Street.
[Appealing a determination dated December [11, 2001, that the proposal to convert existing [office suites to artist work spaces with [accessory residential space is prohibited under [Planning Code § 204.4(b).
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner El Qadah, the Board voted 4-0-1 (Commissioner Saunders absent) to overrule the subject determination with findings to be adopted at a later date.

SPEAKERS: Lawrence Badiner, ZA, said the dwelling units in a commercial building maybe be deemed accessory uses but not a group housing facility and no live-work units may be approved anymore. Here the living portions are not subordinate to the office-commercial uses. If the Board reads the Code as permitting residential uses and not dwelling units then it might be possible to approve them. Brett Gladstone, attorney for Appellants, said the artists work zone is 75% for work and people are living in 25% of units or less. Most of these tenants have been here for five to eight years.

(9) **APPEAL NO. 02-036**

GABRIEL SANCHEZ & LORENZO AVIGNONI dba "MONARCH SCOOTERS", Appellant(s)

vs.

ZONING ADMINISTRATOR, Respondent

[1684 – 15th Street.
[Appealing a determination dated Feb. 26, [2002, addressed to Gabriel Sanchez & [Lorenzo Avignoni, that Planning Code [§ 726.61 does not allow the use of the subject [property building for sale of motor scooters, [automotive sales or rental as a principal use [within the Valencia Neighborhood Commercial [District (NCD).
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Cullum, the Board voted 5-0 to reschedule the matter to June 19, 2002.

SPEAKERS: Lawrence Badiner, ZA, asked the Board to continue the item for thirty days so that he can further consider the issues raised by his determination.

MEETING MINUTES, BOARD OF APPEALS, MAY 15, 2002

ITEMS (10A) & (10B) SHALL BE HEARD TOGETHER:

(10A) **APPEAL NO. 02-037**

FOREST VIEW LLC, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING COMMISSION DISAPPROVAL

§ 14 Principal(s): EDGEHILL WAY HOMEOWNER'S ASSOC.

[315 Edgehill Way.
[Appealing denial on March 13, 2002, of Site [Permit to Erect a Building (four-story single [family house with 1,500sf of ground floor area).
[APPLICATION NO. 9805711S.
[FOR HEARING TODAY.

(10B) **APPEAL NO. 02-038**

FOREST VIEW LLC, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING COMMISSION DISAPPROVAL

§ 14 Principal(s): EDGEHILL WAY HOMEOWNER'S ASSOC.

[319 Edgehill Way.
[Appealing denial on March 13, 2002, of Site [Permit to Erect a Building (four-story single [family house with 1,500sf of ground floor area).
[APPLICATION NO. 9805710S.
[FOR HEARING TODAY.

ACTION: Upon motion by Vice President McInerney, the Board voted 4-1 (President Chin dissented) to overrule the Planning Commission's denial, and grant both permits with the following conditions: a) that the overall length of the building be reduced from 50 feet to 40 feet; b) that the gross square footage of each house not exceed 3600sf including the garage and storage space; c) that the project sponsor provide a street improvement bond for all roadwork; d) that no construction on the project begin other than foundation work until all roadway widening work in front of all 6 lots intended for development is complete; e) that the project sponsor will record an open space preservation easement for all six lots to be approved by the Board on June 5, 2002; f) that conditions of the Structural Advisory Committee be implemented by the project sponsor; g) and that findings be prepared by the appellant's attorney for adoption by the Board on June 5, 2002.

SPEAKERS: Lawrence Badiner, ZA, said the project sponsors had had clear notice that the applications had been denied and should have asked about why no denial letter had been sent in a timely manner. His staff had not sent notice of the denial to DBI so DBI hadn't sent anything out that might have been appealed in a timely manner. He said the same project was denied in 1987 for the same reasons that the proposed houses are much too large for the steep site and narrow road to top of hill.

Harry O'Brien attorney for the Appellant, said that under the Permit Streamlining Act the permits are now approved and that he couldn't notify anyone of a discretionary review hearing that has not been scheduled. Patrick Spiers, Appellant, said this site is more stable than the Knockash Hill site according to the geotechnical professionals. Neil Eisenberg, representing the Edgehill Way Association, the Section 14 Principals, said that the Streamlining Act doesn't apply in this case because it was the Appellant who asked for the continuations that delayed the City's action on the

applications. Howard Ellman speaking for the Edgehill Way Homeowners Association explained the nature of Edgehill Way which is a private street and not maintained by the City. Greg King of 345 Edgehill Way said the proposed houses are 87% the size of the houses disapproved before and that the proposed houses are over twice the size of those at the top of the hill, thus violating the Residential Design Guidelines. Kristen Johansen said that the important issue was safety and the photo shown shows a truck blocking the street. A fire truck got stuck and had to be lifted out. Tim Colen, President of the Edgehill Home Owners Association summarized the opposition to the project by EHOW. He said there is no indemnity proposed and this is "Guinane II" and it would be prudent to uphold the Commission. Laurence Kornfield, CBI, DBI, said his Department takes no position on these appeals and explained the role of the structural advisory committee of engineers and go-technical professionals in the review of such permit application and introduced Frank Rollo, chairman, who explained the results of the committee's study and the distinctions between Edgehill Way and the Knockash rock fall slope.

PUBLIC COMMENT FOR COMMISSION AND EDWHOA:

R. Steven Ellis described two landslides on the other side of his home and described the washboard road that is being reconstructed. Ms. Beth Alberts, daughter for Bruce Alberts whose family is responsible for the road behind their home said the piers for the road will extend onto her parents' property. Joel Luebkeman of 651 Rock Hill Drive said the street is too narrow for emergency vehicles and there is no parking on the street to serve large new houses. Michael McKenna, a real estate broker, said he is generally for development but not here because of lack of vehicular access making the project unsafe.

PUBLIC COMMENT FOR APPELLANT: Pat Buskovich said he has worked on the hill four months and that there was no testimony at the Commission on geotechnical aspects of the project and that there is no geotechnical problem with the project. Elizabeth Naughten said that 80% of the lot will be preserved and there will be four parking spaces for each house. It is not true that this is the same as the Guinane project. It is 23% smaller and doesn't violate the Residential Design Guidelines. Mike Casazza, a neighbor who lives three blocks from the site, said he has talked to geotechnical consultants and engineers and he supports the project. Margaret O'Driscoll said she is raising three children and was concerned about this project nearby but is now satisfied as to its safety. Bill Mandel said he wants to build on his two lots upslope and it is tough to get approval. He feels builders should have some certainty about the process. He said all the houses and apartments in the City had been built by someone. Barry Kane of 14 Edgehill Way said he had gone through four Commission hearings and three Board hearings to get his permit and urged the Board to approve these permits. He said the EWHOA does not represent all the people on the hill Diarmuid MacNeill said Spiers Construction is one of the most competent developers and has the ability to do the project successfully and that the widened road will bring more safety. Eddy Gutienez said he lives a stone's throw from the site and has no objection to the project which will be homes built to scale and for families. James Sangiacomo said he is for the Spiers family which does quality construction. Jim Keith, for the Appellant, said that this proposal is for smaller houses than those proposed earlier and that all the trees outside the footprints of the houses which are 1,500 square feet with the houses fifty feet deep. Neil Eisenberg, attorney for the EWHA said that in addition to the two subject proposed houses there will be four more coming for a total of thirty new bedrooms added to the top of the hill and that the 5,000 square-foot design is too large for the sites. For five years the EWHA has tried to compromise on development of the lots but it hasn't happened. He asked for a continuance to July 10 to try again. Anything approved now will be a

precedent for the other four lots. He said Howard Ellman recommended a street improvement bond so that people building the road will be responsible for it and will warranty the undertaking. Warren Schmalz, architect, said there will be large usable open space provided on the sites.

(11) **APPEAL NO. 02-043**

WILLIAM AUSSERESSES, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[2646 Hyde Street.
[Protesting the issuance on Feb. 28, 2002, to
[Philip and Marla Fernandez, Permit to Alter a
[Building (construct deck, closet, half bath, and
[wet bar on 3rd floor only).
[APPLICATION NO. 2001/11/20/3590.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Cullum, the Board voted 5-0 to uphold the subject permit.

SPEAKERS: William Ausseresses, Appellant, read his letter in opposition to the project and said that the Section 311 Notice has not been complied with and that no permit was ever issued for the roof deck. Jeremy Paul, consultant for the permit holders, showed an aerial photo to show the subject houses and he said that there are no defects in the issuance of the permit and said that a certificate of final occupancy has been issued for the dormers. He feels this is a retaliatory appeal. Lawrence Badiner, ZA, said the Code requires a parapet in this situation and that a parapet is exempt from Section 311 notification requirements.

PUBLIC COMMENT FOR APPELLANT:

Ellen Tsang of 759 Northpoint said her property abuts the subject property at its back yard, and said the preexisting stairs have been removed and the permit holders never got the permit they should have and the Russian Hill Association never had a meeting about sending a letter to the Board.

NO PUBLIC COMMENT FOR PERMIT HOLDER.

(12) **APPEAL NO. 02-045**

DAVID KARLAK, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

4516 – 20th Street.
[Protesting issuance on March 4, 2002, to
[K. Welsh & W. Plautz, Site Permit to Erect a
[Building (four-story single-family dwelling with
[1000sf of ground floor area).
[APPLICATION NO. 2001/01/16/9843S.
[FOR HEARING TODAY.

ACTION: Upon motion by Vice President McInerney, the Board voted 5-0 uphold the subject permit with conditions as stated in the settlement agreement between the parties.

SPEAKERS: None.

(13) **APPEAL NO. 02-051**

1001 CALIFORNIA STREET HOMEOWNERS ASSOCIATION, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[1001 California Street # 9R.
[Appealing a determination dated March 6, [2002, addressed to Coblentz LLP c/o Tay Via & [America Frontier Enterprises c/o Adam Wong, [that the restaurant/bar use at the subject [property was not abandoned for longer than 3 [years, and that its re-establishment would not [require a new conditional use (CU) [authorization by the Planning Commission.
[FOR HEARING TODAY.

ACTION: Matter withdrawn by the appellant.

SPEAKERS: None.

(14) **APPEAL NO. 02-053**

OFELIA LULE, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[122 Highland Avenue.
[Protesting issuance on March 8, 2002, to John [Driscoll & Ounkeo Chant, Permit to Alter a [Building (convert illegal unit in rear cottage to [storage; remove kitchen and bath).
[APPLICATION NO. 2002/03/08/0920.
[FOR HEARING TODAY.

ACTION: Matter withdrawn by the appellant.

SPEAKERS: None.

(15) **APPEAL NO. V02-011**

DIAMOND HEIGHTS COMMUNITY ASSOCIATION, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[47-75 Topaz Way.
[Protesting the granting on January 11, 2002, [to the Topaz Way Homeowner's Association, [of Rear Yard Variance (subdivide an existing [30,024sf lot into two separate lots).
[VARIANCE CASE NO. 2001.0941V.
[FOR HEARING TODAY.

ACTION: Upon motion by Vice President McInerney, the Board voted 3-1-1 (Commissioner Cullum dissented, Commissioner Saunders absent) to uphold the subject variance.

SPEAKERS: Lawrence Badiner, ZA, explained the procedural issues raised by the fact that this property was in a Redevelopment area when it was developed and was a planned unit

development (PUD) by the Agency. He explained the notification problem and said he felt the best way would be for the applicant to ask Conditional Use Approval from the Commission for a revised PUD. Leanne Christie, Appellant, said she opposed variance since it leaves only fifteen feet between back yards of the townhouses and the new lot and there are no other five story buildings in Diamond Heights. This configuration will increase the fire hazard since fire equipment won't be able to get through. John Sanger, attorney for the variance holder said that the variance is justified and all requirements are met. He said some members of the community did attend the various hearings and the fact that this was an Agency PUD is irrelevant since the Agency operates under entirely different rules than does the Planning Department and the ZA.

PUBLIC COMMENT FOR APPELLANT: John Schlenke said larger rear yard is needed to enable fire equipment to get through. He was at the 1992 meeting with Bob Passmore and neighbors were told they would get notices of any changes proposed for the PUD and there was no notice given. He added that former Planning Director Alan Jacobs also said that the 15-foot yard is insufficient. Dusty Eddy said he feels 78 feet is needed at the rear of each unit. He drives past the site every day and is concerned with the preservation of the green open space and with fire safety. Betty Peskin said there are much stronger winds here than in Noe Valley. She said hundreds of people are concerned with these issues and the neighborhood is overwhelmingly opposed to the variance and the 15-foot setback and density proposed.

There being no further business, President Chin adjourned the meeting at 11:02 p.m.

Arnold Y. K. Chin, President

Robert H. Feldman, Executive Secretary

Transcripts of these hearings can be obtained from Easteller Bruihl, the Official Court Reporter, Telephone 348-0050.

BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

REGULAR MEETING - WEDNESDAY, MAY 22, 2002

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

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(2) **COMMISSIONERS COMMENTS & QUESTIONS:**

(3) **ADDENDUM ITEMS:**

ITEM A: 3000 Pierce Street. Letter from Diane LeBow, Requestor, asking that the Board take jurisdiction over Building Permit Application No. 2002/03/13/1275. Permit Holder: Norman Cheney. Project: reroof existing garage, install safety railing.

Date Permit Issued:	March 13, 2002
Last Day to Appeal:	March 28, 2002
Date Jurisdiction Request Received:	May 3, 2002

ITEM B: 769 North Point Street. Letter from William Ausseresses, requesting rehearing of Appeal V01-233, decided Feb. 27, 2002. At that time, upon motion by President Chin, the Board voted 4-0-1 (Commissioner Saunders absent) to uphold the denial of the subject variance. Project: legalize an existing shed that was built without a building permit in the required rear yard.

(4) **APPEAL NO. 01-040**

RICK HOLMAN, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPARTMENT APPROVAL

[445 Bryant Street.
[Protesting issuance on January 29, 2001, to
[Armax, Inc., Site Permit to Erect a Building
[(eight live/work units).
[APPLICATION NO. 2000/09/15/7935S.
[PUBLIC HEARING HELD MAR. 13, 2002.
[FOR FURTHER CONSIDERATION TODAY.

(5) **APPEAL NO. 02-031**

DAVID STADTNER, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent

[355 Fulton Street.
[Appealing denial on March 4, 2002, of Permit to
[Alter a Building (correct record to indicate 41
[existing units).
[APPLICATION NO. 2002/03/04/0501.
[PUBLIC HEARING HELD & CLOSED
[MAY 8, 2002.
[FOR FURTHER CONSIDERATION TODAY.

(6) **APPEAL NO. 02-041**

PAMELA WIGET, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[2195 Green Street.
[Appealing a Notice of Violation dated March 6
[2002, addressed to Pamela Wiget, that the
[subject property is being used for overnigh
[transient hotel accommodations in violation o
[Planning Code § 209.2(d).
[PUBLIC HEARING HELD & CLOSED
[MAY 8, 2002.
[FOR FURTHER CONSIDERATION TODAY.

(7) **APPEAL NO. 01-206**

SMITH KETTLEWELL EYE RESEARCH INSTITUTE (SKERI), Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[2389 Washington Street; 2209, 2232, 2238
[2244 & 2250 Webster Street; 2472 Clay Stree
[and 2318 Fillmore Street.
[Appealing determination dated October 22
[2001, that Planning Commission policie
[imposing limitations on specific properties a
[part of approval actions are part of the Plannin
[Code and thus enforceable by the Zonin
[Administrator, and that the SKERI expansio
[into existing structures constitutes "structura
[expansion" as prohibited in Plannin
[Commission Motion No. 5998.
[FOR HEARING TODAY.

(8) **APPEAL NO. 01-225**

JIMMY LEE, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING COMMISSION DISAPPROVAL

§ 14 Principals: None.

[2 Upland Drive.
[Appealing a denial, on November 14, 2001, of [Site Permit to Alter a Building (alter front entry, [add vertical story over existing building).
[APPLICATION NO. 2000/12/14/7910S.
[FOR HEARING TODAY.

(9) **APPEAL NO. 01-163**

BEATRIZ RIVAS, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[1762 La Salle Avenue.
[Protesting issuance on September 6, 2001, to [Ricardo Orellana, Permit to Alter a Building [(remove illegal kitchen and bath in basement [unit, cap utilities at source, remove non-load [bearing partition walls of bedroom and [closets).
[APPLICATION NO. 2001/09/06/7754.
[FOR HEARING TODAY.

(10) **APPEAL NO. 02-050**

MARC & LISA CABI, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING COMMISSION DISAPPROVAL

§ 14 Principals: SUSAN LANDLOR KEEGIN & DOUGLAS GOLDMAN

[2518 Union Street.
[Appealing the denial on March 21, 2002, of [Permit to Alter a Building (3-story rear addition, [bay additions east/west sides, new foundation, [garage addition, terrace addition at front, new [rear egress stairs, roof alterations, remodel [kitchen and bathrooms).
[APPLICATION NO. 2001/04/11/6580.
[FOR HEARING TODAY.

(11) **APPEAL NO. V02-058**

REBECCA ROBBINS & WILLIAM STRICKLIN, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[3655 Clay Street.
[Protesting the granting on March 25, 2002, to [Diane Harwood & Andrew Dreyfus, of a Rear [Yard Variance (construction of a one-story [addition that encroaches into the required rear [yard).
[VARIANCE CASE NO. 2002.0079V
[FOR HEARING TODAY.

(12) **APPEAL NO. 02-060**

KAREEM JABER
& KAHALIL JABER, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[561 Webster Street.
[Appealing a determination dated March 28, [2002, that the Health Permit Application [Zoning Referral for a Self-Service/Fast Food [Restaurant cannot be approved because the [previous nonconforming use (a deli) was [abandoned 8 years ago, and Planning Code [§ 183 prohibits the re-establishment of a [nonconforming use when it has been [abandoned or discontinued for longer than 3 [years.
[FOR HEARING TODAY.

ADJOURNMENT.

Note: Each item on this agenda may include the following documents:

1. Appellant's statement and rebuttal brief.
2. Permit holder's response and rebuttal brief.
3. Department decision, permit, determination or resolution.
4. Public correspondence.

These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter. Please call 575-6880 if you have any questions concerning this agenda.

Date posted: May 16, 2002

MEMBERS OF THE BOARD OF APPEALS

ARNOLD Y.K. CHIN	PRESIDENT
JOHN E. MCINERNEY, III	VICE PRESIDENT
CAROLE S. CULLUM	COMMISSIONER
ALLAM M. EL QADAH	COMMISSIONER
SABRINA N. SAUNDERS	COMMISSIONER

EASTELLER BRUIHL - OFFICIAL COURT REPORTER 348-0050; THE PRESIDING OFFICER WILL CALL A RECESS AT 6:30 P.M. & WHENEVER NECESSARY FOR THE CONVENIENCE OF THE COURT REPORTER.

PROCEDURE AT HEARINGS

The order of presentation of an appeal shall be as follows: In the case of appeal of denials, revocations and suspensions the representatives of the department, board, commission or person from whose order the appeal is taken shall speak first and shall be allowed seven minutes for their presentation and three minutes for rebuttal.

The appellant whose permit has been denied, revoked or suspended shall be allowed seven minutes for oral argument and three minutes for rebuttal.

In the case of protest appeals, the protestor shall speak first and shall be allowed seven minutes to present oral argument and three minutes for rebuttal, and the permit holder shall be allowed seven minutes to present oral argument and three minutes for rebuttal. The Board may request a departmental response at its own discretion.

Other persons desiring to speak before the Board on an appeal may speak once for up to three minutes.

SPECIAL NOTES

Mailed notices of public hearings on appeals are sent to all parties at least five days prior to the date of hearing. In the event that a matter is continued to a specific date by the presiding officer and announced to the parties in the hearing room, no additional mailed notice will be sent. Please call the Board office at 575-6880 for scheduling or other information during regular business hours, or visit our website at www.ci.sf.ca.us/bdappeal/index.html.

Briefs are limited to twelve pages, excluding exhibits, which should be tabbed for easy reference.

The complete Rules of the Board are available for review at the Board office.

Material submitted by the public for Board review prior to a scheduled hearing before the Board, should be addressed to Arnold Y.K. Chin, President, and be received at the Board office, 1660 Mission Street, Room 3036, no later than 4:00 p.m. the Thursday (six days) prior to the scheduled public hearing. Persons unable to attend the scheduled public hearing may submit written comments regarding a calendared item to the Board office. Comments received before noon on the day of the hearing will be made a part of the official record and will be brought to the attention of the Board at the public hearing. For complete distribution to all Commissioners of the Board, necessary staff and case files, submit an original and ten copies.

Pursuant to Government Code Section 65009, if you challenge, in court, the approval of a variance or development permit, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Board of Appeals at, or prior to, the public hearing.

Calendared items are sometimes withdrawn or rescheduled to a later date prior to hearing, or are taken out of order to accommodate special needs. The Board urges all parties to be present in the hearing room from 5:00 p.m. so that everyone has an opportunity to participate in the relevant public hearing when it is called.

PROHIBITION OF SOUND-PRODUCING ELECTRONIC DEVICES

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

ACCESSIBILITY INFORMATION

American sign language interpreters and/or sound enhancement system will be available upon request by contacting Catherine Johnson at 575-6882 at least 72 hours prior to the hearing. Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call the accessibility hotline at 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals. The closest accessible BART station is the Civic Center station located at the intersection of Market, Hyde and Grove Streets. Accessible curbside parking has been designated at points along McAllister Street. Accessible MUNI lines serving City Hall are the 42 Downtown Loop, 9 San Bruno and 71 Haight/Noriega and the F line. Accessible MUNI Metro lines are the J, K, L, M, and N. For more information regarding MUNI accessible services, call (415) 923-6142.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force: Donna Hall, Sunshine Ordinance Task Force, City Hall, Room 409, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102-4683, Phone (415) 554-7724, fax (415) 554-7854, and e-mail Donna_Hall@ci.sf.ca.us. Copies of the Sunshine Ordinance can be obtained from the Clerk of the Sunshine Task Force, the San Francisco Public Library, and on the City's website at www.ci.sf.ca.us/bdsupvrs/sunshine.

LOBBYING ACTIVITY

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Campaign and Governmental Conduct Code § 2.100] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415) 581-2300; fax (415) 581-2317; web site www.sfgov.org/ethics.

COMMUNICATIONS

Note: Each item on this agenda may include the following documents:

1. Appellant's statement and rebuttal brief.
2. Permit holder's response and rebuttal brief.
3. Department decision, permit, determination or resolution.
4. Public correspondence.

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CITY AND COUNTY OF SAN FRANCISCO
Board of Appeals
Robert H. Feldman, Executive Secretary
1660 Mission Street, Room 3036
San Francisco, California 94103
(415) 575-6880

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES- WEDNESDAY, MAY 22, 2002

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

PRESENT: President Arnold Chin, Vice President John McInerney, Commissioners Carole S. Cullum, Allalm el Qadah, and Sabrina Saunders.

Judith Boyajian, Deputy City Attorney for the City Attorney DCA); Larry Badiner, Zoning Administrator, Planning Department; Rafael Torres-Gil, Senior Building Inspector, DBI; and Robert Feldman, Executive Secretary for the Board of Appeals; Official Court Reporter, Easteller Bruihl.

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

SPEAKERS: None.

(2) **COMMISSIONERS COMMENTS & QUESTIONS:**

SPEAKERS: President Chin announced that one Commissioner would have to leave early and he would entertain favorably requests for continuance.

(3) **ADDENDUM ITEMS:**

ITEM A: 3000 Pierce Street. Letter from Diane LeBow, Requestor, asking that the Board take jurisdiction over Building Permit Application No. 2002/03/13/1275. Permit Holder: Norman Cheney. Project: reroof existing garage, install safety railing.

Date Permit Issued:	March 13, 2002
Last Day to Appeal:	March 28, 2002
Date Jurisdiction Request Received:	May 3, 2002

ACTION: Upon motion by Vice President McInerney, the Board voted 5-0 to grant jurisdiction.

SPEAKERS: Laurence Kornfield explained that no notice of application or issuance is required for this permit under the Building Code, however he has reviewed the file and the Department will have to revoke the permit if the permit holder doesn't submit plans that comply with the Code.

ITEM B: 769 North Point Street. Letter from William Ausseresses, requesting rehearing of Appeal V01-233, decided Feb. 27, 2002. At that time, upon motion by President Chin, the Board voted 4-0-1 (Commissioner Saunders absent) to uphold the denial of the subject variance. Project: legalize an existing shed that was built without a building permit in the required rear yard.

ACTION: Upon motion by Commissioner Cullum, the Board voted 3-2 (President Chin and Vice President McInerney dissented) to grant the rehearing request. Four votes being necessary to grant such a request, the motion failed, and the rehearing request was **denied**.

SPEAKERS: William Ausseresses, the requestor of jurisdiction asked the Board to allow him to file an appeal since he did not receive notice of the hearing in his case. He expected mailed notice as required under the Board Rules and no notice ever came to him. He read the Board's Rule into the record. Jeremy Paul, consultant to the variance holder, said that the requester was very experienced in dealing with the Board and its procedures since he has filed several appeals already and he said that the request was being made to avoid the Notice of Violation requirements being imposed on him. He said there is no basis for the Board to allow a late filing of an appeal in this case. All other appellants have had no trouble understanding their hearing dates from the receipt for fees and the information sheet given to them.

(4) **APPEAL NO. 01-040**

RICK HOLMAN, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPARTMENT APPROVAL

[445 Bryant Street.
[Protesting issuance on January 29, 2001, to
[Armax, Inc., Site Permit to Erect a Building
[(eight live/work units).
[APPLICATION NO. 2000/09/15/7935S.
[PUBLIC HEARING HELD MAR. 13, 2002.
[FOR FURTHER CONSIDERATION TODAY.

ACTION: Matter rescheduled to June 12, 2002 prior to the meeting.

SPEAKERS: none.

(5) **APPEAL NO. 02-031**

DAVID STADTNER, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent

[355 Fulton Street.
[Appealing denial on March 4, 2002, of Permit to
[Alter a Building (correct record to indicate 41
[existing units).
[APPLICATION NO. 2002/03/04/0501.
[PUBLIC HEARING HELD & CLOSED
[MAY 8, 2002.
[FOR FURTHER CONSIDERATION TODAY.

ACTION: After discussion, upon motion by Commissioner Cullum, the Board voted 5-0 to overrule the denial and grant the subject permit.

SPEAKERS: NO PUBLIC COMMENT FOR EITHER SIDE.

(6) **APPEAL NO. 02-041**

PAMELA WIGET, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[2195 Green Street.
[Appealing a Notice of Violation dated March 6, [2002, addressed to Pamela Wiget, that the [subject property is being used for overnight [transient hotel accommodations in violation of [Planning Code § 209.2(d).
[PUBLIC HEARING HELD & CLOSED [MAY 8, 2002.
[FOR FURTHER CONSIDERATION TODAY.

ACTION: Matter withdrawn by the appellant.

SPEAKERS: None.

(7) **APPEAL NO. 01-206**

SMITH KETTLEWELL EYE RESEARCH INSTITUTE (SKERI), Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[2389 Washington Street; 2209, 2232, 2238, [2244 & 2250 Webster Street; 2472 Clay Street; [and 2318 Fillmore Street.
[Appealing determination dated October 22, [2001, that Planning Commission policies [imposing limitations on specific properties as [part of approval actions are part of the Planning [Code and thus enforceable by the Zoning [Administrator, and that the SKERI expansion [into existing structures constitutes "structural [expansion" as prohibited in Planning [Commission Motion No. 5998.
[FOR HEARING TODAY.

ACTION: Matter rescheduled to June 12, 2002 prior to the meeting.

SPEAKERS: None.

(8) **APPEAL NO. 01-225**

JIMMY LEE, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING COMMISSION DISAPPROVAL

[2 Upland Drive.
[Appealing a denial, on November 14, 2001, of [Site Permit to Alter a Building (alter front entry, [add vertical story over existing building).
[APPLICATION NO. 2000/12/14/7910S.
[FOR HEARING TODAY.

§ 14 Principals: None.

ACTION: Upon motion by Vice President McInerney, the Board voted 4-0 to recuse President Chin. Afterwards, upon motion by Commissioner El Qadah, the Board voted 4-0-1 (President Chin recused) to uphold the denial by the Planning Commission.

SPEAKERS: Jeremy Paul, consultant to the Appellant said the revised plans were submitted to the ZA and the plans are Code compliant but there is not yet an agreement with the neighborhood which still opposes the upper floor. He said the existing building is an eyesore and the remodeling will be a great improvement for the neighborhood. He described the revisions made to meet objections to the project. Lawrence Badiner, ZA, said that the Planning Commission disapproved the project because there was no trust of the Appellant in the development process. The permit application had bad information and it appeared to be deceptive. Mr. Paul was not involved in the project at that time. The Commission disapproved a different project. The revised plans now at the Board are very different. This new project should go back through planning and have Section 311 notification made to the neighbors. The third floor is still an issue.

NO PUBLIC COMMENT FOR APPELLANT.

In response to the Chair's question many people in the room stood up to show their support for the Commission's action.

(9) **APPEAL NO. 01-163**

BEATRIZ RIVAS, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[1762 La Salle Avenue.
[Protesting issuance on September 6, 2001, to
[Ricardo Orellana, Permit to Alter a Building
[(remove illegal kitchen and bath in basement
[unit, cap utilities at source, remove non-load
[bearing partition walls of bedroom and
[closets).
[APPLICATION NO. 2001/09/06/7754.
[FOR HEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted 3-2 (Commissioner Cullum and Commissioner Saunders dissented) to uphold the subject permit.

SPEAKERS: Philip O'Brien, attorney for the Rivas family said the representative of the permit holder is also present and they are trying to settle the case but there is no agreement yet. Daniel Bornstein, attorney for the permit holder said that there has been no rent for ten months and his client's offer was not accepted. The Appellant is recalcitrant.

NO PUBLIC COMMENT FOR EITHER SIDE.

(10) **APPEAL NO. 02-050**

MARC & LISA CABI, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING COMMISSION DISAPPROVAL

§ 14 Principals: SUSAN LANDLOR KEEGIN & DOUGLAS GOLDMAN

[2518 Union Street.
[Appealing the denial on March 21, 2002, of [Permit to Alter a Building (3-story rear addition, [bay additions east/west sides, new foundation, [garage addition, terrace addition at front, new [rear egress stairs, roof alterations, remodel [kitchen and bathrooms).
[APPLICATION NO. 2001/04/11/6580.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Cullum, the Board voted 5-0 to close the public hearing and to continue the matter to June 5, 2002, and for the matter to be 1st on the agenda, with revised plans to be submitted.

SPEAKERS: Laurence Badiner, ZA, explained why the Planning Commission has denied the alteration permit to add to the building. He said it was denied because of the Commission's desire to protect the historic nature of the building and the fact that the building is non-complying because it projects into the required rear yard already. David Cincotta, attorney for the Appellants, said that the addition would have very little affect on the neighborhood and that one would need a good wind behind to see anything of the addition. He said that the project has no historic impact and that the building is not a designated landmark nor is it in a historic district. He added that the Cow Hollow design guidelines have not been adopted by the Planning Commission and are not part of the Planning Code. Marc Cabi, Appellant and owner with his wife, read a statement to the Board in her absence and said that they are new owners and don't have the resources of their neighbors and that they have changed their plans many times to accommodate their neighbors. They have much support from the community now. Robert J. McCarthy, attorney for one of the Section 14 Principals, said that the project is inconsistent with the neighborhood character and all the one-family houses have rear yards of 45% of lot depth except 2524 Union Street. The area is a park-like setting and is very unique. The neighbors want to maintain the 45% rear yards to preserve the open space. Douglas Goldman, section 14 Principal said that the project is inappropriate creating mass and bulk out of scale with neighbors and causing a significant loss of mid-block open space. Lucian Blazej, representing other DR requestors (but not the Section 14 Principals) said that the Foundation for the Architectural Heritage opposes the project because of the building's historic nature in having been remodeled by Julia Morgan. It also violates the Secretary of the Interior's standards which he read into the record. He said the distinctive architectural features should be preserved in the 1888 house which is listed in "Here Today". Susan Landlor Keegin, a Section 14 Principal said she has sold her house since the last hearing but thinks approval of this project will set a bad precedent which will threaten this special neighborhood.

PUBLIC COMMENT FOR APPELLANTS: Tanya Fleischer said that this has been a neighborhood battle and that it is difficult for young families who want to stay in the City and this neighborhood. Frank Gerber, president of Cow Hollow Neighborhood Association said the appellants are a wonderful family and an asset to the Community. Kurt Rauzl, said he has known the Cabis as friends and they are respectful of their neighbors. Tanya Rauzi said the Appellants are outstanding friends and citizens. Raul Pomajeb said he cringes when he thinks of the process the Appellants have gone through and that they are wonderful people who show a willingness to work with Planning staff and their neighbors. Pam Hommeyer of 2936 Divisadero said the project will have no impact on the open space she can see and

won't change the character of the area. Appellants went out of their way to not offend the neighbors. Patricia Vaughey said the Appellants have made twelve compromises and the neighbors haven't bent one inch and they have all gotten to expand their houses.

PUBLIC COMMENT FOR COMMISSION: Mark Schlesinger said he lives two doors down and he accepted a Commission DR decision and didn't appeal it, but kept the 45% rear yard. Kathy Kimball said there is no compromise from the Appellant's and the project is just too large. Maureen Sullivan said she is a true neighbor and that if approved this project will set a bad precedent and that the compromise offered by Mr. Goldman at the Commission was a good one but not accepted by the Appellants.

(11) **APPEAL NO. V02-058**

REBECCA ROBBINS
& WILLIAM STRICKLIN, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[3655 Clay Street.
[Protesting the granting on March 25, 2002, to [Diane Harwood & Andrew Dreyfus, of a Rear [Yard Variance (construction of a one-story [addition that encroaches into the required rear [yard).
[VARIANCE CASE NO. 2002.0079V
[FOR HEARING TODAY.

ACTION: Upon motion by Vice President McInerney, the Board voted 4-0-1 (Commissioner Saunders absent) to uphold the subject variance.

SPEAKERS: Rebecca Robbins said she wants a matching lightwell. Project will block her sunlight. Steve Vettel, attorney for variance holder said that the variance was properly issued because all five of the requirements for a variance have been met. His clients have a small house designed by William Wurster and the addition keeps the integrity of its fine architectural design. He explained how alternative designs wouldn't work using a model. Larry Badiner, ZA, said the variance is justified with a small modification made to the design and with required reflective paint to maximize light to the neighbors. William Stricklin, Co-Appellant said that no breakfast area is twenty feet long and that the ground floor has been the same since built in 1912. He feels the requirements for a variance have not been met and that no house in the neighborhood has five-foot setbacks. He feels the addition should be cut back.

NO PUBLIC COMMENT FOR EITHER SIDE.

(12) **APPEAL NO. 02-060**

KAREEM JABER
& KAHALIL JABER, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[561 Webster Street.
[Appealing a determination dated March 28, [2002, that the Health Permit Application [Zoning Referral for a Self-Service/Fast Food [Restaurant cannot be approved because the [previous nonconforming use (a deli) was [abandoned 8 years ago, and Planning Code [§ 183 prohibits the re-establishment of a [nonconforming use when it has been [abandoned or discontinued for longer than 3 [years.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner El Qadah, the Board voted 5-0 to overrule the subject determination with a finding that the subject non-conforming use (a deli) was not abandoned or discontinued for longer than 3 years.

SPEAKERS: Larry Badiner, ZA, said he has made no visit to the site and explained that this is a determination for a referral from the Health Department. He said that he now sees there is great community support for the Appellants. Kareen Jaber, co-Appellant with his brother, described how his family has conducted the business on the site over the years and how he and his brother now want to conduct a coffee shop which is needed in the neighborhood.

PUBLIC COMMENT FOR APPELLANTS: Joanne Minsky, president of the Oakhill Neighborhood Association said her group and Supervisor Matt Gonzalez want the shop reopened. She said that Officer John Gallagher and Captain Fagin feel this business will help deter crime. Elika Brooks of 363 Webster Street said he is in support of the Good Day Café where there is no loitering or hanging out. Jim Vorrises said he jogs by the site and supports its reopening.

NO PUBLIC COMMENT FOR PLANNING.

There being no further business, President Chin adjourned the meeting at 9:08 p.m

Arnold Y. K. Chin, President

Robert H. Feldman, Executive Secretary

Transcripts of these hearings can be obtained from Esteller Bruihl, the Official Court Reporter. Telephone 576-0700..

BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

REGULAR MEETING - WEDNESDAY, MAY 29, 2002

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

(2) **COMMISSIONERS COMMENTS & QUESTIONS:**

DOCUMENTS DEPT.

MAY 24 2002

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05-24-02A11:21 RCVD

(3) **ADDENDUM ITEMS:**

ITEM A: 1479 – 3rd Avenue. Letter from Larry Badiner, Zoning Administrator, requesting rehearing of Appeal 01-196, Wydler vs. ZA, decided Jan. 30, 2002. Upon motion by Vice President McInerney, the Board voted 4-0-1 (Commissioner Saunders absent) to overrule the subject determination and to adopt the findings submitted by the appellant's attorney. Appellant: Aton Wydler. Determination: that use of the subject property as a 4-unit residential building is not permitted under the Planning Code, and is not considered to be a legal non-conforming use under Planning Code Sections 180 through 185.

ITEM B: 520 – 4th Street. Letter from Randy Sue Pollack, attorney for Steven Lee dba "Glaskat Supper Club," requesting that the Board take jurisdiction over a Zoning Administrator determination dated March 19, 2002, addressed to Steven Lee, that the Police Permit Application Zoning Referral for an Extended Hours Premises Permit at the subject property cannot be approved because such approval would constitute an intensification of the legal nonconforming use (nighttime entertainment) in violation of Planning Code § 181(a), and because the prior Extended Hours Premises Permits enjoyed at the subject property were all voluntarily surrendered in excess of 3 years ago, and Planning Code § 183 prohibits the reestablishment of nonconforming uses that have been discontinued for a continuous period of 3 years.

Date of Determination:	March 19, 2002
Last Day to Appeal:	April 3, 2002
Request for Jurisdiction Received:	May 13, 2002

(4) **APPEAL NO. 98-046**

GERARDO PINTO & MARIANNE RUDDY, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT DISAPPROVAL

[1506-08 Alabama Street.
[Denial on March 6, 1998, of permit to Alter a
[Building (legalize flat on ground floor; add
[windows in kitchen and living room; add fan
[and light in bathroom; provide fire wall and
[door between garage and flat).
[APPLICATION NO. 9802518S.
[PUBLIC TESTIMONY HEARD NOV. 18, 1998,
[& FEB. 17, 1999.
[FOR FURTHER CONSIDERATION TODAY.

(5) **APPEAL NO. 99-085**

MARK BORSUK, Appellant(s)
vs.
DEPT. BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT DISAPPROVAL

[1626 Vallejo Street.
[Denial on May 24, 1999, of permit to Alter a
[Building (new deck, window and firewall).
[APPLICATION NO. 9810583.
[PUBLIC HEARING HELD AND CLOSED
[JULY 14, 1999.
[FOR FURTHER CONSIDERATION TODAY.

(6) **APPEAL NO. 01-222**

BRENDAN LALOR, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING COMMISSION DISAPPROVAL

§ 14 Principals: SHUI HUNG & SO CHUN LEE

[1117 Judah Street.
[Appealing denial on November 20, 2001, c
[Site Permit to Erect a Building (four-story, two
[unit residential building with 1,575sf of groun
[floor area).
[APPLICATION NO. 2000/10/16/3112S
[PUBLIC HEARING HELD MAR. 13, 2002.
[FOR FURTHER CONSIDERATION TODAY.

(7) **APPEAL NO. 02-021**

TERRY CHAN, Appellant(s)
vs.
TAXI COMMISSION, Respondent

[Appealing the rescission on January 30, 200
[of taxicab medallion no(s). 758.
[FOR HEARING TODAY.

(8) **APPEAL NO. 02-061**

CLAY STREET
HOMEOWNERS ASSOCIATION, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent

[3967 Clay Street.
[Protesting the issuance on March 25, 2002, to [David Seetapun, Permit to Alter a Building [(remove and replace wall finishes and fixtures [in kitchen, replace countertops and cabinets).
[APPLICATION NO. 2002/03/25/2185.
[FOR HEARING TODAY.

(9) **APPEAL NO. 01-239**

RENEE TAN, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING COMMISSION DISAPPROVAL

[337-339 Mississippi Street.
[Appealing denial on December 6, 2001, of [Permit to Alter a Building (remove existing [kitchen on first floor, combine floors as single [family dwelling, replace front entry door).
[APPLICATION NO. 2001/04/16/6901.
[FOR HEARING TODAY.

(10) **APPEAL NO. 02-030**

FOSTER MEDIA, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[50 – 8th Street.
[Appealing a determination dated February 1, [2002, addressed to Lars Skugstad at Foster [Media, that Building Permit Application No(s). [2002/01/22/7467 for a general advertising sign [at the subject property is disapproved because [the subject property is visible from and located [within 200 feet of the Market Street Special [Sign District.
[FOR HEARING TODAY.

(11) **APPEAL NO. 02-063**

ERIC YOUNG
dba "SF BATTLE ZONE", Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[1968 Powell Street (583 Lombard Street).
[Appealing a Notice of Violation dated March 26, [2002, addressed to Gan Woo Wong, that the [small grocery store at the subject property has [been converted into an internet café without [benefit of a permit, in violation of Planning Code [§ 722.48 which requires conditional use (CU) [authorization for "Other Entertainment Uses" in [the North Beach Neighborhood Commercial [Zoning District.
[FOR HEARING TODAY.

(12) **APPEAL NO. 02-064**

JUAN PINEDA
& HELEN BISSON, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent

[4136 23rd Street.
[Protesting issuance on April 4, 2002, to Lynn
[Thompson, Permit to Alter a Building (revision
[to Building Permit Application 9911366, as built,
[interior).
[APPLICATION NO. 2002/04/04/3126.
[FOR HEARING TODAY.

(13) **APPEAL NO. 01-221**

RANDOLPH & JOANNA GEORGE,
Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[355 Lombard Street.
[Protesting issuance on November 8, 2001, to
[Donald Jans, Site Permit to Alter a Building
[(install wall, as per plans, on west side of front
[yard).
[APPLICATION NO. 2000/07/19/5599S.
[FOR HEARING TODAY.

(14) **APPEAL NO. 02-052**

OTTO WIEGAND, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[4001 Mission Street.
[Protesting the issuance on March 12, 2002, to
[James O'Donovan, Permit to Demolish a
[Building (one-story building).
[APPLICATION NO. 2001/11/06/2561.
[FOR HEARING TODAY.

ADJOURNMENT.

Note: Each item on this agenda may include the following documents:

1. Appellant's statement and rebuttal brief.
2. Permit holder's response and rebuttal brief.
3. Department decision, permit, determination or resolution.
4. Public correspondence.

These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter. Please call 575-6880 if you have any questions concerning this agenda.

Date posted: May 23, 2002

MEMBERS OF THE BOARD OF APPEALS

ARNOLD Y.K. CHIN	PRESIDENT
JOHN E. MCINERNEY, III	VICE PRESIDENT
CAROLE S. CULLUM	COMMISSIONER
ALLAM M. EL QADAH	COMMISSIONER
SABRINA N. SAUNDERS	COMMISSIONER

EASTELLER BRUIHL - OFFICIAL COURT REPORTER 348-0050; THE PRESIDING OFFICER WILL CALL A RECESS AT 6:30 P.M. & WHENEVER NECESSARY FOR THE CONVENIENCE OF THE COURT REPORTER.

PROCEDURE AT HEARINGS

The order of presentation of an appeal shall be as follows: In the case of appeal of denials, revocations and suspensions the representatives of the department, board, commission or person from whose order the appeal is taken shall speak first and shall be allowed seven minutes for their presentation and three minutes for rebuttal.

The appellant whose permit has been denied, revoked or suspended shall be allowed seven minutes for oral argument and three minutes for rebuttal.

In the case of protest appeals, the protestor shall speak first and shall be allowed seven minutes to present oral argument and three minutes for rebuttal, and the permit holder shall be allowed seven minutes to present oral argument and three minutes for rebuttal. The Board may request a departmental response at its own discretion.

Other persons desiring to speak before the Board on an appeal may speak once for up to three minutes.

SPECIAL NOTES

Mailed notices of public hearings on appeals are sent to all parties at least five days prior to the date of hearing. In the event that a matter is continued to a specific date by the presiding officer and announced to the parties in the hearing room, no additional mailed notice will be sent. Please call the Board office at 575-6880 for scheduling or other information during regular business hours, or visit our website at www.ci.sf.ca.us/bdappeal/index.html.

Briefs are limited to twelve pages, excluding exhibits, which should be tabbed for easy reference.

The complete Rules of the Board are available for review at the Board office.

Material submitted by the public for Board review prior to a scheduled hearing before the Board, should be addressed to Arnold Y.K. Chin, President, and be received at the Board office, 1660 Mission Street, Room 3036, no later than 4:00 p.m. the Thursday (six days) prior to the scheduled public hearing. Persons unable to attend the scheduled public hearing may submit written comments regarding a calendared item to the Board office. Comments received before noon on the day of the hearing will be made a part of the official record and will be brought to the attention of the Board at the public hearing. For complete distribution to all Commissioners of the Board, necessary staff and case files, submit an original and ten copies.

Pursuant to Government Code Section 65009, if you challenge, in court, the approval of a variance or development permit, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Board of Appeals at, or prior to, the public hearing.

Calendared items are sometimes withdrawn or rescheduled to a later date prior to hearing, or are taken out of order to accommodate special needs. The Board urges all parties to be present in the hearing room from 5:00 p.m. so that everyone has an opportunity to participate in the relevant public hearing when it is called.

PROHIBITION OF SOUND-PRODUCING ELECTRONIC DEVICES

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

ACCESSIBILITY INFORMATION

American sign language interpreters and/or sound enhancement system will be available upon request by contacting Catherine Johnson at 575-6882 at least 72 hours prior to the hearing. Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call the accessibility hotline at 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals. The closest accessible BART station is the Civic Center station located at the intersection of Market, Hyde and Grove Streets. Accessible curbside parking has been designated at points along McAllister Street. Accessible MUNI lines serving City Hall are the 42 Downtown Loop, 9 San Bruno and 71 Haight/Noriega and the F line. Accessible MUNI Metro lines are the J, K, L, M, and N. For more information regarding MUNI accessible services, call (415) 923-6142.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force: Donna Hall, Sunshine Ordinance Task Force, City Hall, Room 409, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102-4683, Phone (415) 554-7724, fax (415) 554-7854, and e-mail Donna_Hall@ci.sf.ca.us. Copies of the Sunshine Ordinance can be obtained from the Clerk of the Sunshine Task Force, the San Francisco Public Library, and on the City's website at www.ci.sf.ca.us/bdsupvrs/sunshine.

LOBBYING ACTIVITY

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Campaign and Governmental Conduct Code § 2.100] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415) 581-2300; fax (415) 581-2317; web site www.sfgov.org/ethics.

COMMUNICATIONS

Note: Each item on this agenda may include the following documents:

1. Appellant's statement and rebuttal brief.
2. Permit holder's response and rebuttal brief.
3. Department decision, permit, determination or resolution.
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CITY AND COUNTY OF SAN FRANCISCO
Board of Appeals
Robert H. Feldman, Executive Secretary
1660 Mission Street, Room 3036
San Francisco, California 94103
(415) 575-6880

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES - WEDNESDAY, MAY 29, 2002

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

Present: President Arnold Y. K. Chin, Vice President John McInerney, Commissioner Carole Cullum, Commissioner Allam el Qadah, Commissioner Sabrina Saunders.

Judith Boyajian, Deputy City Attorney for the city Attorney (DCA); Larry Badiner, Zoning Administrator, Planning Department; Laurence Kornfield, Chief Building Inspector, DBI; and Robert Feldman, Executive Secretary for the Board of Appeals; Official Court Reporter, Easteller Bruihl.

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

SPEAKERS: Larry Badiner thanked Board for its cooperation since he will not be present at its last meeting, June 26, 2002.

(2) **COMMISSIONERS COMMENTS & QUESTIONS:**

SPEAKERS: President Chin expressed feelings of appreciation to Zoning Administrator for his professionalism in handling the Planning matters before the Board.

Vice President McInerney said he appreciated the ZA's expertise and wit. Commissioner Cullum said she supports Vice President's remarks. Commissioners Saunders and El Qadah thanked the ZA for his clear explanations of his cases and said they could always rely on his presentations and solutions to appeals.

Vice President McInerney responded to media coverage of recent appeals and expressed his concern for the lack of objectivity in reporting. He then explained the mandate he and the Board had been given to insure justice and thanked the other members for their collaborative efforts in fulfilling their mandate together.

President Chin thanked staff for its response to the Supervisor's inquiry regarding a recent appeal.

(3) **ADDENDUM ITEMS:**

ITEM A: 1479 – 3rd Avenue. Letter from Larry Badiner, Zoning Administrator, requesting rehearing of Appeal 01-196, Wydler vs. ZA, decided Jan. 30, 2002. Upon motion by Vice President McInerney, the Board voted 4-0-1 (Commissioner Saunders absent) to overrule the subject determination and to adopt the findings submitted by the appellant's attorney. Appellant: Aton Wydler. Determination: that use of the subject property as a 4-unit residential building is not permitted under the Planning Code, and is not considered to be a legal non-conforming use under Planning Code Sections 180 through 185.

ACTION: Upon motion by President Chin, the Board voted 5-0 to reschedule the matter to June 19, 2002.

SPEAKERS: None.

ITEM B: 520 – 4th Street. Letter from Randy Sue Pollack, attorney for Steven Lee dba "Glaskat Supper Club," requesting that the Board take jurisdiction over a Zoning Administrator determination dated March 19, 2002, addressed to Steven Lee, that the Police Permit Application Zoning Referral for an Extended Hours Premises Permit at the subject property cannot be approved because such approval would constitute an intensification of the legal nonconforming use (nighttime entertainment) in violation of Planning Code § 181(a), and because the prior Extended Hours Premises Permits enjoyed at the subject property were all voluntarily surrendered in excess of 3 years ago, and Planning Code § 183 prohibits the reestablishment of nonconforming uses that have been discontinued for a continuous period of 3 years.

Date of Determination:	March 19, 2002
Last Day to Appeal:	April 3, 2002
Request for Jurisdiction Received:	May 13, 2002

ACTION: Upon motion by commissioner Cullum, the Board voted 5-0 to grant the jurisdiction request. The requestor has fifteen days to file an appeal.

SPEAKERS: Randy Sue Pollack, attorney for the requestor said she practices in federal court and had failed to meet the deadline for appeal. Lawrence Badiner, ZA, objected to allowing a new appeal period since his staff had reissued the decision which gave the requestors more than the usual time to appeal.

(4) **APPEAL NO. 98-046**

GERARDO PINTO & MARIANNE RUDDY, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT DISAPPROVAL

[1506-08 Alabama Street.
[Denial on March 6, 1998, of permit to Alter a [Building (legalize flat on ground floor; add [windows in kitchen and living room; add fan [and light in bathroom; provide fire wall and [door between garage and flat).
[APPLICATION NO. 9802518S.
[PUBLIC TESTIMONY HEARD NOV. 18, 1998, [& FEB. 17, 1999.
[FOR FURTHER CONSIDERATION TODAY.

ACTION: Upon motion by President Chin, the Board voted 5-0 to continue the matter to the indefinite calendar at Call of the Chair

SPEAKERS: Gerald Pinto, Co-Appellant, explained the history of his appeal and asked the Board to legalize his third unit. Marianne Ruddy, Co-Appellant, asked the Board to grandfather the unit so tenant can remain in it. Laurence Kornfield, (BI, DBI) reminded the Board of his site visit and the minor problems which have been cleared up and the additional Code standards that must be met if this third unit is lawfully added, making the building an apartment house under the Code.

NO PUBLIC COMMENT FOR EITHER SIDE.

(5) **APPEAL NO. 99-085**

MARK BORSUK, Appellant(s)
vs.
DEPT. BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT DISAPPROVAL

[1626 Vallejo Street.
[Denial on May 24, 1999, of permit to Alter a [Building (new deck, window and firewall).
[APPLICATION NO. 9810583.
[PUBLIC HEARING HELD AND CLOSED [JULY 14, 1999.
[FOR FURTHER CONSIDERATION TODAY.

ACTION: Upon motion by Commissioner Saunders, the Board voted 5-0 to uphold the denial of the subject permit.

SPEAKERS: Mark Borsuk, Appellant, explained that the dispute between the tenants-in-common is now in the court of appeals and he asked the Board to put the appeal back on the indefinite calendar at the Call of the Chair. Keith Ryan, one of the other tenants in common said that he has tried to go to arbitration but the Appellant's attorney won't respond to his request and he asked the Board to uphold the decision and not continue it again so this matter can be resolved.

NO PUBLIC COMMENT FOR EITHER SIDE

(6) **APPEAL NO. 01-222**

BRENDAN LALOR, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING COMMISSION DISAPPROVAL

§ 14 Principals: SHUI HUNG & SO CHUN LEE

[1117 Judah Street.
[Appealing denial on November 20, 2001, of [Site Permit to Erect a Building (four-story, two-[unit residential building with 1,575sf of ground [floor area).
[APPLICATION NO. 2000/10/16/3112S
[PUBLIC HEARING HELD MAR. 13, 2002.
[FOR FURTHER CONSIDERATION TODAY.

ACTION: Upon motion by vice President McInerney, the Board voted 5-0 to overrule the denial by the Planning Commission, and grant the permit with adoption of findings as submitted by the appellant's attorney.

SPEAKERS: David Cincotta reported that there is no agreement on revised plan yet and he described the revision proposed by the Appellant and said that the Planning Commission's decision was draconian and constitutes a "taking." Mimi Lee speaking for her parents, the Section 14 Parties, said she disagreed with the Appellant's position and that he was incorrect as to the facts. Lawrence Badiner, ZA, said that in his view the Commission's decision is not a "taking" but rather a reasonable compromise that is doable.

NO PUBLIC COMMENT FOR EITHER SIDE.

(7) **APPEAL NO. 02-021**

TERRY CHAN, Appellant(s)
vs.
TAXI COMMISSION, Respondent

[Appealing the rescission on January 30, 2002, [of taxicab medallion no(s). 758.
[FOR HEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted 3-2 (Vice President McInerney and Commissioner Cullum dissented) to continue the matter to the indefinite calendar at Call of the Chair.

SPEAKERS: Paul Zarefsky, Deputy City Attorney for the Taxi Commission, explained that a mistake had been made and asked the Board to uphold the Commission since to overrule would result in an unlawful granting of a medallion to someone not deserving of one and that the Commission had acted in good faith. Terry Chan, Appellant, explained the chronology of events and how he had relied on the Commission's action in going into debt to fix his house and buy a taxicab. He asked the Board to overrule the rescission so he can keep the medallion and support his family and handle his debt.

PUBLIC COMMENT FOR TAXI COMMISSION: Rya Graffis of United Taxi Workers said she didn't support the Appellant and said that every driver on the list knows at all times their position on the list and Appellant should have realized it was not yet his time and not accepted the medallion in error. He has made $9,000 so far from it and a driver can expect to make $12,000 a year as income. He will get a lawful medallion when his number comes up.

NO PUBLIC COMMENT FOR APPELLANT.

Judith Boyajian said she agreed with the analysis of Vice President McInerney that the body of case law supports the Commission.

(8) **APPEAL NO. 02-061**

CLAY STREET HOMEOWNERS ASSOCIATION, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent

[3967 Clay Street.
[Protesting the issuance on March 25, 2002, to [David Seetapun, Permit to Alter a Building [(remove and replace wall finishes and fixtures [in kitchen, replace countertops and cabinets).
[APPLICATION NO. 2002/03/25/2185.
[FOR HEARING TODAY.

ACTION: This matter was withdrawn by the appellants.

SPEAKERS: None.

(9) **APPEAL NO. 01-239**

RENEE TAN, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING COMMISSION DISAPPROVAL

[337-339 Mississippi Street.
[Appealing denial on December 6, 2001, of [Permit to Alter a Building (remove existing [kitchen on first floor, combine floors as single [family dwelling, replace front entry door).
[APPLICATION NO. 2001/04/16/6901.
[FOR HEARING TODAY.

ACTION: Upon motion by Vice President McInerney, the Board voted 4-1 (Commissioner Cullum dissented) to overrule the denial by the Planning Commission, and grant the permit with adoption of findings as prepared by the appellant's attorney.

SPEAKERS: Lawrence Badiner, ZA, explained the Planning Commission's policy on residential merger cases and said this application met only one of the five criteria set forth by the Commission. Andrew Zacks, attorney for the Appellant said that the building was subject to the Ellis Act and the units could not be rented for years and that the application does meet the Commission's criteria and should be approved, especially since the rental housing market has changed substantially since the policy was adopted and units are available now.

Rene Tan, Appellant, explained her family's need for a larger home to accommodate themselves and the tenants willingness to vacate the units

(10) **APPEAL NO. 02-030**

FOSTER MEDIA, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[50 – 8th Street.
[Appealing a determination dated February 1, [2002, addressed to Lars Skugstad at Foster [Media, that Building Permit Application No(s). [2002/01/22/7467 for a general advertising sign [at the subject property is disapproved because [the subject property is visible from and located [within 200 feet of the Market Street Special [Sign District.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Cullum, the Board voted 5-0 to reschedule the matter to June 12, 2002.

SPEAKERS: None.

(11) **APPEAL NO. 02-063**

ERIC YOUNG
dba "SF BATTLE ZONE", Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[1968 Powell Street (583 Lombard Street).
[Appealing a Notice of Violation dated March 26, [2002, addressed to Gan Woo Wong, that the [small grocery store at the subject property has [been converted into an internet café without [benefit of a permit, in violation of Planning Code [§ 722.48 which requires conditional use (CU) [authorization for "Other Entertainment Uses" in [the North Beach Neighborhood Commercial [Zoning District.
[FOR HEARING TODAY.

ACTION: Upon motion by Vice President McInerney, the Board voted 4-0-1 (Commissioner Saunders absent) to reschedule the matter to June 26, 2002.

SPEAKERS: None

(12) **APPEAL NO. 02-064**

JUAN PINEDA
& HELEN BISSON, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent

[4136 23rd Street.
[Protesting issuance on April 4, 2002, to Lynn [Thompson, Permit to Alter a Building (revision [to Building Permit Application 9911366, as built, [interior).
[APPLICATION NO. 2002/04/04/3126.
[FOR HEARING TODAY.

ACTION: Upon motion by Vice President McInerney, the Board voted 4-0-1 (Commissioner Saunders absent) to reschedule the matter to June 26, 2002.

SPEAKERS: Lawrence Badiner, ZA, said the Department had acted on a complaint and the owner is still operating. Juan Pineda, Appellant, requested a rescheduling to June 26 so that there will be a five-member Board hearing the appeal. Susanne Kelly, attorney for the permit holder, said that the appeal comes in the middle of construction under an approved permit and the project is not part of the appeal and her client is not present.

NO PUBLIC COMMENT FOR EITHER SIDE.

(13) **APPEAL NO. 01-221**

RANDOLPH & JOANNA GEORGE, Appellant(s)	[355 Lombard Street.
vs.	[Protesting issuance on November 8, 2001, to
DEPT. OF BUILDING INSPECTION, Respondent	[Donald Jans, Site Permit to Alter a Building [(install wall, as per plans, on west side of front [yard).
PLANNING DEPT. APPROVAL	[APPLICATION NO. 2000/07/19/5599S. [FOR HEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted 4-0-1 (Commissioner Saunders absent) to reschedule the matter to June 26, 2002.

SPEAKERS: Steve Atkinson, attorney for the Appellants said his clients have agreed to reschedule the appeal to June 26. Donald Jans, Permit Holder, said that the rescheduling to June 26 was acceptable to him.

(14) **APPEAL NO. 02-052**

OTTO WIEGAND, Appellant(s)	[4001 Mission Street.
vs.	[Protesting the issuance on March 12, 2002, to
DEPT. OF BUILDING INSPECTION, Respondent	[James O'Donovan, Permit to Demolish a [Building (one-story building).
PLANNING DEPT. APPROVAL	[APPLICATION NO. 2001/11/06/2561. [FOR HEARING TODAY.

ACTION: Upon motion by Commissioner El Qadah, the Board voted 5-0 to reschedule the matter to June 12, 2002.

SPEAKERS: None.

There being no further business, President Chin adjourned the meeting at 7:40 p.m.

Arnold Y. K. Chin, President

Robert H. Feldman, Executive Secretary

Transcripts of these hearings can be obtained from Esteller Bruihl, the Official Court Reporter. Telephone: 576-0700.

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

REGULAR MEETING - WEDNESDAY, JUNE 5, 2002

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

(2) **COMMISSIONERS COMMENTS & QUESTIONS:**

(3) **CLOSED SESSION:**

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ITEM A: Public Comment concerning the Closed Session.

ITEM B: Discussion and vote pursuant to Administrative Code § 67.11(a) as to whether to conduct a closed session and invoke the attorney-client privilege.

ITEM C: Pursuant to Government Code § 54956.9 and Administrative Code § 67.8 (3), the Board of Appeals will meet in Closed Session to discuss and take action on attorney-client matters in the following case:

i. EXISTING LITIGATION:

Preservation Properties vs. Board of Appeals et al.,
Superior Court No(s). 500296,

Re: Appeal No(s). 01-109/110/111/112, Wojak et al. vs. DBI,
1775-1777 Yosemite Avenue & 1760 Armstrong Avenue
On September 12, 2001, upon motion by Commissioner Cullum, the Board voted 4-1 (President Chin dissented) to revoke all four permits; on October 10, 2001, upon motion by Commissioner El Qadah, the Board voted 3-2 (President Chin & Commissioner McInerney dissented) to deny the request for rehearing by the permit holder.

ITEM D: Adjourn Closed Session.

ITEM E: Motion to disclose or not disclose the information discussed in the Closed Session.

ITEM F: Reconvene Regular Meeting.

(4) **ADDENDUM ITEM(S):**

ITEM A: 144 Eddy Street. Letter from Andrew Zacks, attorney for appellant Empress LLC requesting rehearing of Appeal No. 01-082, Empress LLC vs. ZA, decided January 9, 2002. Upo motion by Commissioner Cullum, the Board voted 3-2 (President Chin & Commissioner El Qadal dissented) to uphold the subject determination. Determination Holder: Tenderloin Housing Clinic.

ITEM B: 144 Eddy Street. Proposed findings for Appeal 01-081, West Cork LLC vs. ZA, an Appeal 01-082, Empress LLC vs. ZA, decided Jan. 9, 2002. Upon motion by Commissione Cullum, the Board voted 3-2 (President Chin & Commissioner El Qadah dissented) to uphold th subject determination. Determination Holder: Tenderloin Housing Clinic. For adoption today.

ITEM C: 315 & 319 Edgehill Way. Letter from Tim Colen, agent for the Edgehill Wa Homeowner's Association, § 14 Party, requesting rehearing of Appeal No(s). 02-037/038, Fores View LLC vs. DBI, PCD, decided May 15, 2002. Upon motion by Commissioner McInerney, th Board voted 4-1 (President Chin dissented) to overrule the Planning Commission's denial, an grant both permits with the following conditions: a) that the overall length of the building be reduce from 50 feet to 40 feet; b) that the gross square footage of each house not exceed 3600 including the garage and storage space; c) that the project sponsor provide a street improveme bond for all roadwork; d) that no construction on the project begin other than foundation work un all roadway widening work in front of all 6 lots intended for development is complete; e) that th project sponsor will record an open space preservation easement for all six lots to be approved b the Board on June 5, 2002; f) that conditions of the Structural Advisory Committee be implemente by the project sponsor; g) and that findings be prepared by the appellant's attorney for adoption b the Board on June 5, 2002.

ITEM D: 315 & 319 Edgehill Way. Proposed findings and Notice of Special Restrictions (ope space preservation easement) for Appeal Nos. 02-037/038, Forest View LLC vs. DBI, PCI decided May 15, 2002. Upon motion by Commissioner McInerney, the Board voted 4-1 (Preside Chin dissented) to overrule the Planning Commission's denial, and grant both pe its with conditions as listed above in Item C.

ITEM E: 271 Cumberland Street #5. Letter from Chuck Louden, permit holder, requestir rehearing of Appeal No. 01-175, Holland vs. DBI, PDA, decided May 15, 2002. Upon motion I Commissioner Cullum, the Board voted 5-0 to revoke the subject permit. Project: comply wi NOV, replacement roof deck, 2X4 sleepers on asphalt roof (legalize existing deck).

(5) **APPEAL NO. 02-050**

MARC & LISA CABI, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING COMMISSION DISAPPROVAL

§ 14 Principals: SUSAN LANDLOR KEEGIN & DOUGLAS GOLDMAN

[2518 Union Street.
[Appealing the denial on March 21, 2002, of [Permit to Alter a Building (3-story rear addition, [bay additions east/west sides, new foundation, [garage addition, terrace addition at front, new [rear egress stairs, roof alterations, remodel [kitchen and bathrooms).
[APPLICATION NO. 2001/04/11/6580.
[PUBLIC HEARING HELD & CLOSED [MAY 22, 2002.
[FOR FURTHER CONSIDERATION TODAY.

(6) **CONSENT ITEMS:** With the consent of the Department of Building Inspection, the Board will proceed to a vote without testimony to reduce the penalty (investigation fee) to two times the regular fee as provided for in the Building Code. Without consent the Board will take testimony and then decide the appeal.

(6A) **APPEAL NO. 02-059**

DONALD MASSONI, MARIANNE SACCO & RONALD MASSONI, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[443 – 8th Avenue.
[Appealing the imposition of penalty on [March 19, 2002 for work done without a permit.
[APPLICATION NO. 2002/03/04/0551.
[FOR HEARING TODAY.

(6B) **APPEAL NO. 02-062**

ZHENWEN ZHU, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[381 Baltimore Way.
[Appeal for refund of penalty imposed on [April 10, 2002, for work done without a permit.
[APPLICATION NO. 2002/02/28/0339.
[FOR HEARING TODAY.

(6C) **APPEAL NO. 02-069**

JUDY CHIN, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[22 Madison Street.
[Appeal for refund of penalty imposed on [April 15, 2002, for work done without a permit.
[APPLICATION NO. 2002/01/15/6948.
[FOR HEARING TODAY.

(6D) **APPEAL NO. 02-072**

RAYMOND ZHANG, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[1261 Goettingen Street.
[Appealing imposition of penalty on April 17, [2002, for work done without a permit.
[APPLICATION NO.
[FOR HEARING TODAY.

(7) **APPEAL NO. 02-017**

TEODORA MONTOYA, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. DISAPPROVAL

[951 Naples Street.
[Appealing denial on February 4, 2002, of
[Permit to Alter a Building (legalize existing in-
[law apartment in basement).
[APPLICATION NO. 2001/10/10/0331.
[PUBLIC HEARING HELD APRIL 3, 2002.
[FOR FURTHER CONSIDERATION TODAY.

(8) **APPEAL NO. 02-054**

KATHERINE ROBERTS
& JAMES DYER, Appellant(s)
vs.
DEPT. OF PUBLIC WORKS, Respondent

[1514 Waller Street.
[Protesting the issuance on March 12, 2002, to
[Brendan McKenna, Permit to Remove One
[Tree (Without Replacement).
[ORDER NO. 173,400.
[FOR HEARING TODAY.

(9) **APPEAL NO. 02-067**

KATHERINE
ROBERTS & JAMES DYER, Appellant(s)
vs.
DEPT. OF PUBLIC WORKS, Respondent

[1478 Page Street.
[Protesting the issuance on March 28, 2002, to
[Michael Farr, Permit to Remove & Replace
[One (1) Tree with an "in-lieu fee" condition.
[ORDER NO. 173,447.
[FOR HEARING TODAY.

(10) **APPEAL NO. 96-175**

REBECCA A. VISPERAS, Appellant(s)
vs.
DEPT. BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT DISAPPROVAL

[550-552 Athens Street.
[Denial on December 9, 1996, of permit to Alter
[a Building (legalize existing use a two family
[dwelling on two floors of occupancy).
[APPLICATION NO. 9518320.
FOR HEARING TODAY.

(11) **APPEAL NO. 02-066**

VAN TRAN, Appellant(s)
vs.
POLICE DEPT., Respondent

[Appealing the denial on April 2, 2002, of ar
[application for additional stops at 1345 & 138
[Underwood Avenue for Mobile Catering Truc
[No(s). 33.
[FOR HEARING TODAY.

(12) **APPEAL NO. 02-070**

MARY BAGGENSTOSS, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent

[1257B Dolores Street.
[Protesting the issuance on April 5, 2002, to [Anne Walzer, Permit to Alter a Building (1/4" [sheetrock attached to shearwalls, shelf and [structure to box in sloped cement foundation [along north wall, plywood floor to create level [floor).
[APPLICATION NO. 2002/04/05/3239.
[FOR HEARING TODAY.

(13) **APPEAL NO. 02-071**

LE COLONIAL LLP, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[20 Cosmo Place.
[Appealing a determination dated Jan. 30, 2002, [addressed to Tim Dale, that a Place of [Entertainment Permit Application cannot be [approved because the subject property abuts [the RC-4 zoning district and has an open [balcony at the rear of the second floor of [occupancy, in violation of Planning Code [§ 221(f) which states that a place of [entertainment may not have any opening other [than fixed windows and exits required by law if [the property is within 50 feet of an R zoning [district.
[JURISDICTION GRANTED APRIL 3, 2002.
[FOR HEARING TODAY.

(14) **APPEAL NO. 01-243**

ANDREW & STACEY FROST, ROBERT & MARIAN HEATH, KAREN LARSEN, MICHAEL SHANE, RONNA STONE, TIMOTHY SMITH, VERNE & ROBERT DOXEY, DAVID IRWIN, SUSAN GAMBLE, DEBORAH & H. BOYD SEYMOUR, and NANCY & ROGER BOAS, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[3352 Washington Street.
[Appealing a determination dated December [17, 2001, addressed to Alice Barkley, attorney [for owners John & Shirley Oswald, that the [proposed roof structure on the subject [property is a dormer and that it complies with [Planning Code § 261 in terms of area [limitation requirements for permitted [exceptions, and that the proposed roof height [is code complying.
[APPLICATION NO. 2000/06/16/2818.
[FOR HEARING TODAY.

ADJOURNMENT.

Note: Each item on this agenda may include the following documents: 1) Appellant's statement and rebuttal brief; 2) Permit holder's response and rebuttal brief; 3) Department decision, permit, determination or resolution; 4) Public correspondence. These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter. **DATE POSTED: May 30, 2002**

MEMBERS OF THE BOARD OF APPEALS

ARNOLD Y.K. CHIN	PRESIDENT
JOHN E. MCINERNEY, III	VICE PRESIDENT
CAROLE S. CULLUM	COMMISSIONER
ALLAM M. EL QADAH	COMMISSIONER
SABRINA N. SAUNDERS	COMMISSIONER

EASTELLER BRUIHL - OFFICIAL COURT REPORTER 348-0050; THE PRESIDING OFFICER WILL CALL A RECESS AT 6:30 P.M. & WHENEVER NECESSARY FOR THE CONVENIENCE OF THE COURT REPORTER.

PROCEDURE AT HEARINGS

The order of presentation of an appeal shall be as follows: In the case of appeal of denials, revocations and suspensions the representatives of the department, board, commission or person from whose order the appeal is taken shall speak first and shall be allowed seven minutes for their presentation and three minutes for rebuttal.

The appellant whose permit has been denied, revoked or suspended shall be allowed seven minutes for oral argument and three minutes for rebuttal.

In the case of protest appeals, the protestor shall speak first and shall be allowed seven minutes to present oral argument and three minutes for rebuttal, and the permit holder shall be allowed seven minutes to present oral argument and three minutes for rebuttal. The Board may request a departmental response at its own discretion.

Other persons desiring to speak before the Board on an appeal may speak once for up to three minutes.

SPECIAL NOTES

Mailed notices of public hearings on appeals are sent to all parties at least five days prior to the date of hearing. In the event that a matter is continued to a specific date by the presiding officer and announced to the parties in the hearing room, no additional mailed notice will be sent. Please call the Board office at 575-6880 for scheduling or other information during regular business hours, or visit our website at www.ci.sf.ca.us/bdappeal/index.html.

Briefs are limited to twelve pages, excluding exhibits, which should be tabbed for easy reference.

The complete Rules of the Board are available for review at the Board office.

Material submitted by the public for Board review prior to a scheduled hearing before the Board, should be addressed to Arnold Y.K. Chin, President, and be received at the Board office, 1660 Mission Street, Room 3036, no later than 4:00 p.m. the Thursday (six days) prior to the scheduled public hearing. Persons unable to attend the scheduled public hearing may submit written comments regarding a calendared item to the Board office. Comments received before noon on the day of the hearing will be made a part of the official record and will be brought to the attention of the Board at the public hearing. For complete distribution to all Commissioners of the Board, necessary staff and case files, submit an original and ten copies.

Pursuant to Government Code Section 65009, if you challenge, in court, the approval of a variance or development permit, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Board of Appeals at, or prior to, the public hearing.

Calendared items are sometimes withdrawn or rescheduled to a later date prior to hearing, or are taken out of order to accommodate special needs. The Board urges all parties to be present in the hearing room from 5:00 p.m. so that everyone has an opportunity to participate in the relevant public hearing when it is called.

PROHIBITION OF SOUND-PRODUCING ELECTRONIC DEVICES

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

ACCESSIBILITY INFORMATION

American sign language interpreters and/or sound enhancement system will be available upon request by contacting Catherine Johnson at 575-6882 at least 72 hours prior to the hearing. Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call the accessibility hotline at 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals. The closest accessible BART station is the Civic Center station located at the intersection of Market, Hyde and Grove Streets. Accessible curbside parking has been designated at points along McAllister Street. Accessible MUNI lines serving City Hall are the 42 Downtown Loop, 9 San Bruno and 71 Haight/Noriega and the F line. Accessible MUNI Metro lines are the J, K, L, M, and N. For more information regarding MUNI accessible services, call (415) 923-6142.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force: Donna Hall, Sunshine Ordinance Task Force, City Hall, Room 409, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102-4683, Phone (415) 554-7724, fax (415) 554-7854, and e-mail Donna_Hall@ci.sf.ca.us. Copies of the Sunshine Ordinance can be obtained from the Clerk of the Sunshine Task Force, the San Francisco Public Library, and on the City's website at www.ci.sf.ca.us/bdsupvrs/sunshine.

LOBBYING ACTIVITY

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Campaign and Governmental Conduct Code § 2.100] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415) 581-2300; fax (415) 581-2317; web site www.sfgov.org/ethics.

COMMUNICATIONS

Note: Each item on this agenda may include the following documents:

1. Appellant's statement and rebuttal brief.
2. Permit holder's response and rebuttal brief.
3. Department decision, permit, determination or resolution.
4. Public correspondence.

These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter.

CITY AND COUNTY OF SAN FRANCISCO
Board of Appeals
Robert H. Feldman, Executive Secretary
1660 Mission Street, Room 3036
San Francisco, California 94103
(415) 575-6880

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES - WEDNESDAY, JUNE 5, 2002

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

Present: President Arnold Y. K. Chin, Vice President John McInerney, Commissioner Carole Cullum, Commissioner Allam el Qadah, Commissioner Sabrina Saunders.

Judith Boyajian, Deputy City Attorney for the City Attorney (DCA); Jonas P. Ionin, Sr. Planning Officer, Zoning Administrator, Planning Department; Laurence Kornfield, Chief Building Inspector, DBI; and Victor Pacheco for Robert Feldman, Executive Secretary for the Board of Appeals; Official Court Reporter, Easteller Bruihl.

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

SPEAKERS: Patricia Vaughey, Alice Barkley, Kumar Patel.

(2) **COMMISSIONERS COMMENTS & QUESTIONS:**

SPEAKERS: Commissioner el Qauda asked if Mr. Feldman was okay. Staff answered in the affirmative.

(3) **CLOSED SESSION:** Adjourned for closed session at 5:26 p.m.

ITEM A: Public Comment concerning the Closed Session. None.

ITEM B: Discussion and vote pursuant to Administrative Code § 67.11(a) as to whether to conduct a closed session and invoke the attorney-client privilege.

ITEM C: Pursuant to Government Code § 54956.9 and Administrative Code § 67.8 (3), the Board of Appeals met with City Attorney's representative in Closed Session to discuss and take action on attorney-client matters in the following case:

i. EXISTING LITIGATION:

Preservation Properties vs. Board of Appeals et al.,
Superior Court No(s). 500296,

Re: Appeal No(s). 01-109/110/111/112, Wojak et al. vs. DBI,
1775-1777 Yosemite Avenue & 1760 Armstrong Avenue
On September 12, 2001, upon motion by Commissioner Cullum, the Board voted 4-1 (President Chin dissented) to revoke all four permits; on October 10, 2001, upon motion by Commissioner El Qadah, the Board voted 3-2 (President Chin & Commissioner McInerney dissented) to deny the request for rehearing by the permit holder.

ITEM D: Adjourn Closed Session.

ITEM E: Motion to disclose or not disclose the information discussed in the Closed Session.

ITEM F: Reconvene Regular Meeting.

ACTION: Upon motion by Commissioner Cullum, the Board voted 5-0 to meet in Closed Session. Afterwards, upon motion by Commissioner Cullum, the Board voted 5-0 not to disclose the information discussed during the Closed Session.

SPEAKERS: None.

(4) **ADDENDUM ITEM(S):**

ITEM A: 144 Eddy Street. Letter from Andrew Zacks, attorney for appellant Empress LLC, requesting rehearing of Appeal No. 01-082, Empress LLC vs. ZA, decided January 9, 2002. Upon motion by Commissioner Cullum, the Board voted 3-2 (President Chin & Commissioner El Qadah dissented) to uphold the subject determination. Determination Holder: Tenderloin Housing Clinic.

ACTION: This matter was rescheduled to June 19, 2002 prior to consideration.

SPEAKERS: None.

ITEM B: 144 Eddy Street. Proposed findings for Appeal 01-081, West Cork LLC vs. ZA, and Appeal 01-082, Empress LLC vs. ZA, decided Jan. 9, 2002. Upon motion by Commissioner Cullum, the Board voted 3-2 (President Chin & Commissioner El Qadah dissented) to uphold the subject determination. Determination Holder: Tenderloin Housing Clinic. For adoption today.

ACTION: This matter was rescheduled to June 19, 2002 prior to consideration.

SPEAKERS: None.

ITEM C: 315 & 319 Edgehill Way. Letter from Tim Colen, agent for the Edgehill Way Homeowner's Association, § 14 Party, requesting rehearing of Appeal No(s). 02-037/038, Forest View LLC vs. DBI, PCD, decided May 15, 2002. Upon motion by Commissioner McInerney, the Board voted 4-1 (President Chin dissented) to overrule the Planning Commission's denial, and grant both permits with the following conditions: a) that the overall length of the building be reduced

from 50 feet to 40 feet; b) that the gross square footage of each house not exceed 3600sf including the garage and storage space; c) that the project sponsor provide a street improvement bond for all roadwork; d) that no construction on the project begin other than foundation work until all roadway widening work in front of all 6 lots intended for development is complete; e) that the project sponsor will record an open space preservation easement for all six lots to be approved by the Board on June 5, 2002; f) that conditions of the Structural Advisory Committee be implemented by the project sponsor; g) and that findings be prepared by the appellant's attorney for adoption by the Board on June 5, 2002.
ACTION: Upon motion by Vice President McInerney, the Board voted 4-1 (Commissioner Cullum dissented) to deny the request for rehearing.

SPEAKERS: Neil Eisenberg, LLC, attorney for neighbors; Harry O'Brien, attorney for Appellant.

Four to one to deny request for rehearing. Denied.

ITEM D: 315 & 319 Edgehill Way. Proposed findings and Notice of Special Restrictions (open space preservation easement) for Appeal Nos. 02-037/038, Forest View LLC vs. DBI, PCD, decided May 15, 2002. Upon motion by Commissioner McInerney, the Board voted 4-1 (Commissioner Cullun dissented) to overrule the Planning Commission's denial, and grant both permits with the conditions as listed above in Item C.

ACTION: Upon motion by Vice President McInerney, the Board voted 5-0 to continue the matter to June 12, 2002 with the parties to submit documents directly to Board members.

SPEAKERS: Harry O'Brien, LLC, Neil Eisenberg, attorney for neighborhood.
Five to 0 to continue to June 12, 2002.

ITEM E: 271 Cumberland Street #5. Letter from Chuck Louden, permit holder, requesting rehearing of Appeal No. 01-175, Holland vs. DBI, PDA, decided May 15, 2002. Upon motion by Commissioner Cullum, the Board voted 5-0 to revoke the subject permit. Project: comply with NOV, replacement roof deck, 2X4 sleepers on asphalt roof (legalize existing deck).

ACTION: Upon motion by Vice President McInerney, the Board voted 5-0 to deny the request for rehearing.

SPEAKERS: Chuck Louden, Permit Holder, Laurence Kornfield, DBI, Jackie Holland, Appellant.

(5) **APPEAL NO. 02-050**

MARC & LISA CABI, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING COMMISSION DISAPPROVAL

§ 14 Principals: SUSAN LANDLOR KEEGIN & DOUGLAS GOLDMAN

[2518 Union Street.
[Appealing the denial on March 21, 2002, of [Permit to Alter a Building (3-story rear addition, [bay additions east/west sides, new foundation, [garage addition, terrace addition at front, new [rear egress stairs, roof alterations, remodel [kitchen and bathrooms).
[APPLICATION NO. 2001/04/11/6580.
[PUBLIC HEARING HELD & CLOSED [MAY 22, 2002.
[FOR FURTHER CONSIDERATION TODAY.

ACTION: Upon motion by Vice President McInerney, the Board voted 4-1 (President Chin dissented) to uphold the procedural denial (modification) by the Planning Commission with conditions as stated by Vice President McInerney, with adoption of findings set for June 12, 2002.

SPEAKERS: Marc A. Cabi, Permit Holder, Robert J. McCarthy, attorney, Lucian Blazej, Susan Keegin, Owner.

(6) **CONSENT ITEMS:** With the consent of the Department of Building Inspection, the Board will proceed to a vote without testimony to reduce the penalty (investigation fee) to two times the regular fee as provided for in the Building Code. Without consent the Board will take testimony and then decide the appeal.

(6A) **APPEAL NO. 02-059**

DONALD MASSONI, MARIANNE SACCO & RONALD MASSONI, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[443 – 8th Avenue.
[Appealing the imposition of penalty on [March 19, 2002 for work done without a permit.
[APPLICATION NO. 2002/03/04/0551.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Cullum, the Board voted 5-0 to reduce the subject penalty to two times the regular fee.

SPEAKERS: None. Department consented.

(6B) **APPEAL NO. 02-062**

ZHENWEN ZHU, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[381 Baltimore Way.
[Appeal for refund of penalty imposed on [April 10, 2002, for work done without a permit.
[APPLICATION NO. 2002/02/28/0339.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner El Qadah, the Board voted 5-0 to reduce the subject penalty to two times the regular fee.

SPEAKERS: None. Department consented.

(6C) **APPEAL NO. 02-069**

JUDY CHIN, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[22 Madison Street.
[Appeal for refund of penalty imposed on [April 15, 2002, for work done without a permit.
[APPLICATION NO. 2002/01/15/6948.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Cullum, the Board voted 5-0 to reduce the subject penalty to two times the regular fee.

SPEAKERS: None. Department consented.

(6D) **APPEAL NO. 02-072**

RAYMOND ZHANG, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[1261 Goettingen Street.
[Appealing imposition of penalty on April 17, [2002, for work done without a permit.
[APPLICATION NO.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner El Cullum, the Board voted 5-0 to reduce the subject penalty to five times the regular fee.

SPEAKERS: None. Department consented.

(7) **APPEAL NO. 02-017**

TEODORA MONTOYA, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. DISAPPROVAL

[951 Naples Street.
[Appealing denial on February 4, 2002, of [Permit to Alter a Building (legalize existing in-[law apartment in basement).
[APPLICATION NO. 2001/10/10/0331.
[PUBLIC HEARING HELD APRIL 3, 2002.
[FOR FURTHER CONSIDERATION TODAY.

ACTION: Upon motion by Commissioner Cullum, the Board voted 5-0 to reschedule the matter to Aug. 14, 2002.

SPEAKERS: Teodara Montoya, Appellant. Laurence Kornfield, Maurice Valiencia.

(8) **APPEAL NO. 02-054**

KATHERINE ROBERTS
& JAMES DYER, Appellant(s)
vs.
DEPT. OF PUBLIC WORKS, Respondent

[1514 Waller Street.
[Protesting the issuance on March 12, 2002, to
[Brendan McKenna, Permit to Remove One
[Tree (Without Replacement).
[ORDER NO. 173,400.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Saunders, the Board voted 5-0 to uphold the subject permit.

SPEAKERS: Katherine Roberts, appellant, Brendan McKenna, Permit Holder, Paul Sacamano, DPW, Jonas P. Ionin, Planning, Joe Speak(s), Steven Willis (s), Amy Winters (s), Ted Loewenberg (o), Rebecca Johnson (s), Doerte Murray (s), Carolyn S. McKenna, Permit Holder.

[5 for support of appeal and 0 for opposition to appeal]

(9) **APPEAL NO. 02-067**

KATHERINE
ROBERTS & JAMES DYER, Appellant(s)
vs.
DEPT. OF PUBLIC WORKS, Respondent

[1478 Page Street.
[Protesting the issuance on March 28, 2002, to
[Michael Farr, Permit to Remove & Replace
[One (1) Tree with an "in-lieu fee" condition.
[ORDER NO. 173,447.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Cullum, the Board voted 5-0 to uphold the subject permit.

SPEAKERS: Katherine Roberts, Appellant; James Dyer, Appellant; Mike Farr, Permit Holder; Paul Sacamano, DPW; Jonas P. Ionin, Planning; Alan Prass (o), Shaun Supanich (o).

(10) **APPEAL NO. 96-175**

REBECCA A. VISPERAS, Appellant(s)
vs.
DEPT. BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT DISAPPROVAL

[550-552 Athens Street.
[Denial on December 9, 1996, of permit to Alter
[a Building (legalize existing use a two family
[dwelling on two floors of occupancy).
[APPLICATION NO. 9518320.
FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Saunders, the Board voted 5-0 to continue the matter to the Call of the Chair.

SPEAKERS: Jonas P. Ionin, Planning, Laurence Kornfield, DBI, Scott Bassin, Representative for Rebecca A. Visperas, Gurson S. Dang.

(11) **APPEAL NO. 02-066**

VAN TRAN, Appellant(s)
vs.
POLICE DEPT., Respondent

[Appealing the denial on April 2, 2002, of an [application for additional stops at 1345 & 1389 [Underwood Avenue for Mobile Catering Truck [No(s). 33.
[FOR HEARING TODAY.

ACTION: Upon motion by Vice President McInerney, the Board voted 4-1 (President Chin dissented) to dismiss the case for lack of subject matter jurisdiction, and for the filing fees to be refunded.

SPEAKERS: Sgt. William J. Coggan, SFPD, Van Tran, Appellant, Officer Patricia Hanson, SFPD.

(12) **APPEAL NO. 02-070**

MARY BAGGENSTOSS, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent

[1257B Dolores Street.
[Protesting the issuance on April 5, 2002, to [Anne Walzer, Permit to Alter a Building (1/4" [sheetrock attached to shearwalls, shelf and [structure to box in sloped cement foundation [along north wall, plywood floor to create level [floor).
[APPLICATION NO. 2002/04/05/3239.
[FOR HEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted 5-0 to close the public hearing, and to continue the matter to June 26, 2002.

SPEAKERS: Mary Baggenstoss, Appellant, Anne Walzer, Permit Holder, Laurence Kornfield, DBI, Monika Khushz, and Cindy Ossias in support of Permit Holder

(13) **APPEAL NO. 02-071**

LE COLONIAL LLP, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[20 Cosmo Place.
[Appealing a determination dated Jan. 30, 2002, [addressed to Tim Dale, that a Place of [Entertainment Permit Application cannot be [approved because the subject property abuts [the RC-4 zoning district and has an open [balcony at the rear of the second floor of [occupancy, in violation of Planning Code [§ 221(f) which states that a place of [entertainment may not have any opening other [than fixed windows and exits required by law if [the property is within 50 feet of an R zoning [district.

[JURISDICTION GRANTED APRIL 3, 2002.
[FOR HEARING TODAY.

ACTION: Upon motion by Vice President Mclenrney, the Board voted 4-1 (Commissioner Cullum dissented) to overrule the determination on condition that there be no seating on the subject balcony after 9pm, with adoption of all the conditions as stated in the settlement between the appellant and the Police Department.

SPEAKERS: Jonas P. Ionin, Planning, Officer Edward Anzore, SFPD, Justine DeAlba, agent for Le Colonial, Lt. Bruce Loran, SFPD, Kevin O'Connor, (s), Support of Zoning Administrator: Reiner Newman, Maria M. Muehlegger, Patricia Glasky, Lynn D. W. Luckow, Ray Hori, Tim Dale, Le Colonial, Harry Andre, Genevieve Fraychak, Jose Rodriquez, Patrick Knight, Bradget Hennessy, M. T. Boutin.

(14) **APPEAL NO. 01-243**

ANDREW & STACEY
FROST, ROBERT & MARIAN
HEATH, KAREN LARSEN, MICHAEL
SHANE, RONNA STONE, TIMOTHY
SMITH, VERNE & ROBERT DOXEY,
DAVID IRWIN, SUSAN GAMBLE,
DEBORAH & H. BOYD SEYMOUR,
and NANCY & ROGER BOAS, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[3352 Washington Street.
[Appealing a determination dated December [17, 2001, addressed to Alice Barkley, attorney [for owners John & Shirley Oswald, that the [proposed roof structure on the subject [property is a dormer and that it complies with [Planning Code § 261 in terms of area [limitation requirements for permitted [exceptions, and that the proposed roof height [is code complying.
[APPLICATION NO. 2000/06/16/2818.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Cullum, the Board voted 4-1 (President Chin dissented) to reschedule the matter to June 12, 2002.

SPEAKERS: Jim Rueben, Alice Barkley.

There being no further business, President Chin adjourned the meeting at 12:10 a.m.

Arnold Y. K. Chin, President

Robert H. Feldman, Executive Secretary

Transcripts of these hearings can be obtained from Esteller Bruihl, the Official Court Reporter. Telephone: 576-0700.

SF
P30
#2
6/12/02

BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

REGULAR MEETING - WEDNESDAY, JUNE 12, 2002

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

(2) **COMMISSIONERS COMMENTS & QUESTIONS:**

DOCUMENTS DEPT.

JUN 12 2002

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(3) **ADDENDUM ITEMS:**

ITEM A: 315 & 319 Edgehill Way. Proposed findings and Notice of Special Restrictions (open space preservation easement) for Appeal Nos. 02-037/038, Forest View LLC vs. DBI, PCD, decided May 15, 2002. Upon motion by Commissioner McInerney, the Board voted 4-1 (President Chin dissented) to overrule the Planning Commission's denial, and grant both permits with the following conditions: a) that the overall length of the building be reduced from 50 feet to 40 feet; b) that the gross square footage of each house not exceed 3600sf including the garage and storage space; c) that the project sponsor provide a street improvement bond for all roadwork; d) that no construction on the project begin other than foundation work until all roadway widening work in front of all 6 lots intended for development is complete; e) that the project sponsor will record an open space preservation easement for all six lots to be approved by the Board on June 5, 2002; f) that conditions of the Structural Advisory Committee be implemented by the project sponsor; g) and that findings be prepared by the appellant's attorney for adoption by the Board on June 5, 2002. PUBLIC TESTIMONY HEARD JUNE 5, 2002. FOR FURTHER CONSIDERATION TODAY.

ITEM B: 2518 Union Street. Proposed findings for Appeal No(s). 02-050, Cabi vs. DBI, PCD, decided June 5, 2002. Upon motion by Vice President McInerney, the Board voted 4-1 (President Chin dissented) to uphold the procedural denial (modification) by the Planning Commission, with conditions as stated into the record by Vice President McInerney, and with findings to be adopted by the Board on June 12, 2002.

(4) **APPEAL NO. V01-170**

ROSE PARDINI, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[745 Brazil Avenue.
[Appealing denial of Rear Yard Variance (third
[floor addition of an existing legal non-
[complying dwelling structure located in the
[required rear yard)
[VARIANCE CASE NO. 2001.0615V
[PUBLIC HEARING HELD JAN. 16, 2002.
[FOR FURTHER CONSIDERATION TODAY.

(5) **APPEAL NO. 01-040**

RICK HOLMAN, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPARTMENT APPROVAL

[445 Bryant Street.
[Protesting issuance on January 29, 2001, to
[Armax, Inc., Site Permit to Erect a Building
[(eight live/work units).
[APPLICATION NO. 2000/09/15/7935S.
[PUBLIC HEARING HELD MAR. 13, 2002.
[FOR FURTHER CONSIDERATION TODAY.

(6) **APPEAL NO. 02-021**

TERRY CHAN, Appellant(s)
vs.
TAXI COMMISSION, Respondent

[Appealing the rescission on January 30, 2002
[of taxicab medallion no(s). 758.
[PUBLIC TESTIMONY HEARD MAY 29, 2002.
[FOR FURTHER CONSIDERATION TODAY.

(7) **APPEAL NO. 02-020**

DAVID ADAMS, Appellant(s)
vs.
TAXI COMMISSION, Respondent

[Appealing denial on January 30, 2002, o
[taxicab medallion no(s). 129.
[FOR HEARING TODAY.

ITEMS (8A) & (8B) SHALL BE HEARD TOGETHER:

(8A) **APPEAL NO. 02-032**

RICHARD OLNESS, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent

[3331 Jackson Street.
[Protesting issuance on February 19, 2002, to [Robert Devlin, Permit to Alter a Building [(retaining wall, fence, lattice, brickwork at rear [yard, provide drainage).
[APPLICATION NO. 2002/02/19/9469.
[FOR HEARING TODAY.

(8B) **APPEAL NO. 02-044**

RICHARD OLNESS, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[3331 Jackson Street.
[Protesting issuance on March 14, 2002, to Robert Devlin, Permit to Alter a Building [(retaining wall, fence, lattice, brick work).
[APPLICATION NO. 2002/03/14/1440.
[FOR HEARING TODAY.

ITEMS (9A) & (9B) SHALL BE HEARD TOGETHER:

(9A) **APPEAL NO. 02-026**

ADCO OUTDOOR ADVERTISING,
Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. REQUEST FOR SUSPENSION

[74 Otis Street.
[Appealing the suspension on February 12, [2002, of Permit to Erect a Sign (single [faced wall sign 46' X 42' with 1,932sf of [total surface area).
[APPLICATION NO. 9818016.
[FOR HEARING TODAY.

(9B) **APPEAL NO. 02-027**

ADCO OUTDOOR ADVERTISING,
Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. REQUEST FOR SUSPENSION

[74 Otis Street.
[Appealing the suspension on February 12, [2002, of Permit to Erect a Sign (single [faced wall sign 26' X 24' with 624sf of total [surface area).
[APPLICATION NO. 2000/04/26/8334.
[FOR HEARING TODAY.

(10) **APPEAL NO. 01-236**

JEFFREY LITKE, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[679-689 Portola Drive.
[Appealing a Notice of Violation dated December [4, 2001, that a habitable bedroom and [bathroom fixtures exist in the 4th floor [penthouse structure which were re-established [without benefit of building permits, in violation of [Notice of Special Restrictions No. E008502 & [Planning Code § 260(b)(1)(B).
[FOR HEARING TODAY.

(11) **APPEAL NO. 98-117**

EDWARD R. NUNES, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[1780 Oakdale Avenue.
[Health Permit Referral determination by the [Zoning Administrator dated June 10, 1998 that [the proposed Non-conforming Commercial [Food Warehouse/Wholesale Sales use in a RH-[1 zone, will terminate at the current five-year [lease expiration on April 30, 2003.
[FOR HEARING TODAY

(12) **APPEAL NO. 02-042**

CALVIN LEE, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[344 Taraval Street.
[Appealing a Notice of Violation dated Feb. 26, [2002, addressed to Calvin Lee, that the 2nd [floor residential dwelling unit has been [converted to commercial use as additional [dental office space and storage without the [required conditional use (CU) authorization.
[FOR HEARING TODAY.

(13) **APPEAL NO. 02-034**

CHARLENE ATTARD, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[153 Randall Street.
[Appealing a determination dated February 25 [2002, that the proposed third-story bay windov [at the front of the building violates Planning [Code § 136(c)(2).
[FOR HEARING TODAY.

(14) **APPEAL NO. 02-039**

ROBERT & SARAH LESKO, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING COMMISSION DISAPPROVAL

§ 14 Principals: N/A (Mandatory DR).

[51-55 Vicksburg Street.
[Appealing denial on March 13, 2002, of Site [Permit to Alter a Building (unit merger from [3-units to 1-unit, kitchen and bath remodel, [deck extension).
[APPLICATION NO. 2001/11/02/2416S.
[FOR HEARING TODAY.

(15) **APPEAL NO. 01-206**

SMITH KETTLEWELL EYE RESEARCH INSTITUTE (SKERI), Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[2389 Washington Street; 2209, 2232, 2238, [2244 & 2250 Webster Street; 2472 Clay Street; [and 2318 Fillmore Street.
[Appealing determination dated October 22, [2001, that Planning Commission policies [imposing limitations on specific properties as [part of approval actions are part of the Planning [Code and thus enforceable by the Zoning [Administrator, and that the SKERI expansion [into existing structures constitutes "structural [expansion" as prohibited in Planning [Commission Motion No. 5998.
[FOR HEARING TODAY.

(16) **APPEAL NO. 02-052**

OTTO WIEGAND, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[4001 Mission Street.
[Protesting the issuance on March 12, 2002, to [James O'Donovan, Permit to Demolish a [Building (one-story building).
[APPLICATION NO. 2001/11/06/2561.
[FOR HEARING TODAY.

(17) **APPEAL NO. 01-243**

ANDREW & STACEY
FROST, ROBERT & MARIAN
HEATH, KAREN LARSEN, MICHAEL
SHANE, RONNA STONE, TIMOTHY
SMITH, VERNE & ROBERT DOXEY,
DAVID IRWIN, SUSAN GAMBLE,
DEBORAH & H. BOYD SEYMOUR,
and NANCY & ROGER BOAS, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[3352 Washington Street.
[Appealing a determination dated December [17, 2001, addressed to Alice Barkley, attorney [for owners John & Shirley Oswald, that the [proposed roof structure on the subject [property is a dormer and that it complies with [Planning Code § 261 in terms of area [limitation requirements for permitted [exceptions, and that the proposed roof height [is code complying.
[APPLICATION NO. 2000/06/16/2818.
[FOR HEARING TODAY.

ADJOURNMENT.

Note: Each item on this agenda may include the following documents:

1. Appellant's statement and rebuttal brief.
2. Permit holder's response and rebuttal brief.
3. Department decision, permit, determination or resolution.
4. Public correspondence.

These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter. Please call 575-6880 if you have any questions concerning this agenda.

Date posted: June 6, 2002

MEMBERS OF THE BOARD OF APPEALS

ARNOLD Y.K. CHIN	**PRESIDENT**
JOHN E. MCINERNEY, III	**VICE PRESIDENT**
CAROLE S. CULLUM	**COMMISSIONER**
ALLAM M. EL QADAH	**COMMISSIONER**
SABRINA N. SAUNDERS	**COMMISSIONER**

EASTELLER BRUIHL - OFFICIAL COURT REPORTER 348-0050; THE PRESIDING OFFICER WILL CALL A RECESS AT 6:30 P.M. & WHENEVER NECESSARY FOR THE CONVENIENCE OF THE COURT REPORTER.

PROCEDURE AT HEARINGS

The order of presentation of an appeal shall be as follows: In the case of appeal of denials, revocations and suspensions the representatives of the department, board, commission or person from whose order the appeal is taken shall speak first and shall be allowed seven minutes for their presentation and three minutes for rebuttal.

The appellant whose permit has been denied, revoked or suspended shall be allowed seven minutes for oral argument and three minutes for rebuttal.

In the case of protest appeals, the protestor shall speak first and shall be allowed seven minutes to present oral argument and three minutes for rebuttal, and the permit holder shall be allowed seven minutes to present oral argument and three minutes for rebuttal. The Board may request a departmental response at its own discretion.

Other persons desiring to speak before the Board on an appeal may speak once for up to three minutes.

SPECIAL NOTES

Mailed notices of public hearings on appeals are sent to all parties at least five days prior to the date of hearing. In the event that a matter is continued to a specific date by the presiding officer and announced to the parties in the hearing room, no additional mailed notice will be sent. Please call the Board office at 575-6880 for scheduling or other information during regular business hours, or visit our website at www.ci.sf.ca.us/bdappeal/index.html.

Briefs are limited to twelve pages, excluding exhibits, which should be tabbed for easy reference.

The complete Rules of the Board are available for review at the Board office.

Material submitted by the public for Board review prior to a scheduled hearing before the Board, should be addressed to Arnold Y.K. Chin, President, and be received at the Board office, 1660 Mission Street, Room 3036, no later than 4:00 p.m. the Thursday (six days) prior to the scheduled public hearing. Persons unable to attend the scheduled public hearing may submit written comments regarding a calendared item to the Board office. Comments received before noon on the day of the hearing will be made a part of the official record and will be brought to the attention of the Board at the public hearing. For complete distribution to all Commissioners of the Board, necessary staff and case files, submit an original and ten copies.

Pursuant to Government Code Section 65009, if you challenge, in court, the approval of a variance or development permit, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Board of Appeals at, or prior to, the public hearing.

Calendared items are sometimes withdrawn or rescheduled to a later date prior to hearing, or are taken out of order to accommodate special needs. The Board urges all parties to be present in the hearing room from 5:00 p.m. so that everyone has an opportunity to participate in the relevant public hearing when it is called.

PROHIBITION OF SOUND-PRODUCING ELECTRONIC DEVICES

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

ACCESSIBILITY INFORMATION

American sign language interpreters and/or sound enhancement system will be available upon request by contacting Catherine Johnson at 575-6882 at least 72 hours prior to the hearing. Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call the accessibility hotline at 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals. The closest accessible BART station is the Civic Center station located at the intersection of Market, Hyde and Grove Streets. Accessible curbside parking has been designated at points along McAllister Street. Accessible MUNI lines serving City Hall are the 42 Downtown Loop, 9 San Bruno and 71 Haight/Noriega and the F line. Accessible MUNI Metro lines are the J, K, L, M, and N. For more information regarding MUNI accessible services, call (415) 923-6142.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force: Donna Hall, Sunshine Ordinance Task Force, City Hall, Room 409, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102-4683, Phone (415) 554-7724, fax (415) 554-7854, and e-mail Donna_Hall@ci.sf.ca.us. Copies of the Sunshine Ordinance can be obtained from the Clerk of the Sunshine Task Force, the San Francisco Public Library, and on the City's website at www.ci.sf.ca.us/bdsupvrs/sunshine.

LOBBYING ACTIVITY

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Campaign and Governmental Conduct Code § 2.100] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415) 581-2300; fax (415) 581-2317; web site www.sfgov.org/ethics.

COMMUNICATIONS

Note: Each item on this agenda may include the following documents:

1. Appellant's statement and rebuttal brief.
2. Permit holder's response and rebuttal brief.
3. Department decision, permit, determination or resolution.
4. Public correspondence.

These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter.

CITY AND COUNTY OF SAN FRANCISCO
Board of Appeals
Robert H. Feldman, Executive Secretary
1660 Mission Street, Room 3036
San Francisco, California 94103
(415) 575-6880

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES - WEDNESDAY, JUNE 12, 2002

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

Present: President Arnold Y. K. Chin, Vice President John McInerney, Commissioner Carole Cullum, Commissioner Allam el Qadah, Commissioner Sabrina Saunders.

Judith Boyajian, Deputy City Attorney for the City Attorney (DCA); Jonas P. Ionin, Sr. Planning Officer, Planning Department for the Zoning Administrator; Laurence Kornfield, Chief Building Inspector, DBI; and Robert Feldman, Executive Secretary for the Board of Appeals; Official Curt Reporter, Easteller Bruihl.

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

SPEAKERS: None.

(2) **COMMISSIONERS COMMENTS & QUESTIONS:**

SPEAKERS: President Chin commented on the late night hearing on June 5, 2002

(3) **ADDENDUM ITEMS:**

ITEM A: 315 & 319 Edgehill Way. Proposed findings and Notice of Special Restrictions (open space preservation easement) for Appeal Nos. 02-037/038, Forest View LLC vs. DBI, PCD, decided May 15, 2002. Upon motion by Commissioner McInerney, the Board voted 4-1 (President Chin dissented) to overrule the Planning Commission's denial, and grant both permits with the following conditions: a) that the overall length of the building be reduced from 50 feet to 40 feet; b) that the gross square footage of each house not exceed 3600sf including the garage and storage space; c) that the project sponsor provide a street improvement bond for all roadwork; d) that no construction on the project begin other than foundation work until all roadway widening work in front of all 6 lots intended for development is complete; e) that the project sponsor will record an open space preservation easement for all six lots to be approved by the Board on June 5, 2002; f) that conditions of the Structural Advisory Committee be implemented by the project sponsor; g) and that findings be prepared by the appellant's attorney for adoption by the Board on June 5, 2002. PUBLIC TESTIMONY HEARD JUNE 5, 2002. FOR FURTHER CONSIDERATION TODAY.

ACTION: Upon motion by Vice President McInerney, the Board voted 5-0 to adopt the findings with the easement as amended.

SPEAKERS: Neil Esenberg, Harry O'Brien

ITEM B: 2518 Union Street. Proposed findings for Appeal No(s). 02-050, Cabi vs. DBI, PCD, decided June 5, 2002. Upon motion by Vice President McInerney, the Board voted 4-1 (President Chin dissented) to uphold the procedural denial (modification) by the Planning Commission, with conditions as stated into the record by Vice President McInerney, and with findings to be adopted by the Board on June 12, 2002.

ACTION: Upon motion by President Chin, the Board voted 5-0 to adopt the findings as amended.

SPEAKERS: David P. Cincotta, Robert J. McCarthy

(4) **APPEAL NO. V01-170**

ROSE PARDINI, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[745 Brazil Avenue.
[Appealing denial of Rear Yard Variance (third [floor addition of an existing legal non-[complying dwelling structure located in the [required rear yard)
[VARIANCE CASE NO. 2001.0615V
[PUBLIC HEARING HELD JAN. 16, 2002.
[FOR FURTHER CONSIDERATION TODAY.

ACTION: Upon motion by Vice President McInerney, the Board voted 4-0-1 (President Chin recused) to uphold the denial of the subject variance.

SPEAKERS: None.

(5) **APPEAL NO. 01-040**

RICK HOLMAN, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[445 Bryant Street.
[Protesting issuance on January 29, 2001, to [Armax, Inc., Site Permit to Erect a Building [(eight live/work units).
[APPLICATION NO. 2000/09/15/7935S.
[PUBLIC HEARING HELD MAR. 13, 2002.
[FOR FURTHER CONSIDERATION TODAY.

ACTION: Upon motion by Commissioner Saunders, the Board voted 5-0 to continue the matter to Call of the Chair.

SPEAKERS: Ken Taymor, attorney for Appellant; Laurence Kornfield, DBI; Ahmad Larizadeh.

MEETING MINUTES, BOARD OF APPEALS, JUNE 12, 2002

(6) **APPEAL NO. 02-021**

TERRY CHAN, Appellant(s)
vs.
TAXI COMMISSION, Respondent

[Appealing the rescission on January 30, 2002,
[of taxicab medallion no(s). 758.
[PUBLIC TESTIMONY HEARD MAY 29, 2002.
[FOR FURTHER CONSIDERATION TODAY.

ACTION: Upon motion by President Chin, the Board voted 5-0 to uphold the rescission on condition that surrender of the subject medallion be stayed until the appellant becomes eligible for the ramp medallion, at which time the appellant is to surrender the subject medallion (# 758).

SPEAKERS: Naomi M. Little, Taxi Commission; Terry Chan, Appellant, and Mark Gruberg, United Taxicab Workers.

(7) **APPEAL NO. 02-020**

DAVID ADAMS, Appellant(s)
vs.
TAXI COMMISSION, Respondent

[Appealing denial on January 30, 2002, of
[taxicab medallion no(s). 129.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Cullum, the Board voted 3-2 (President Chin & Commissioner el Qadah dissented) to dismiss the matter for lack of subject matter jurisdiction.

SPEAKERS: Naomi M. Little, Taxi Commission,; John H. Feldmann, III, attorney for the Appellant.

ITEMS (8A) & (8B) SHALL BE HEARD TOGETHER:

(8A) **APPEAL NO. 02-032**

RICHARD OLNESS, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent

[3331 Jackson Street.
[Protesting issuance on February 19, 2002, to
[Robert Devlin, Permit to Alter a Building
[(retaining wall, fence, lattice, brickwork at rear
[yard, provide drainage).
[APPLICATION NO. 2002/02/19/9469.
[FOR HEARING TODAY.

(8B) **APPEAL NO. 02-044**

RICHARD OLNESS, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[3331 Jackson Street.
[Protesting issuance on March 14, 2002, to Robert Devlin, Permit to Alter a Building [(retaining wall, fence, lattice, brick work).
[APPLICATION NO. 2002/03/14/1440.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner el Qadah, the Board voted 5-0 to uphold both permits.

SPEAKERS: Richard A. Olness, Appellant, Allan E. Low, attorney for Permit Holder, Susan B. Olness, Laurence Kornfield.

ITEMS (9A) & (9B) SHALL BE HEARD TOGETHER:

(9A) **APPEAL NO. 02-026**

ADCO OUTDOOR ADVERTISING, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. REQUEST FOR SUSPENSION

[74 Otis Street.
[Appealing the suspension on February 12, [2002, of Permit to Erect a Sign (single [faced wall sign 46' X 42' with 1,932sf of [total surface area).
[APPLICATION NO. 9818016.
[FOR HEARING TODAY.

(9B) **APPEAL NO. 02-027**

ADCO OUTDOOR ADVERTISING, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. REQUEST FOR SUSPENSION

[74 Otis Street.
[Appealing the suspension on February 12, [2002, of Permit to Erect a Sign (single [faced wall sign 26' X 24' with 624sf of total [surface area).
[APPLICATION NO. 2000/04/26/8334.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Cullum, the Board voted 5-0 to continue the matter to June 26, 2002.

SPEAKERS: Joseph Forest, attorney for Appellant, Janas Ionin, ZA representative.

(10) **APPEAL NO. 01-236**

JEFFREY LITKE, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[679-689 Portola Drive.
[Appealing a Notice of Violation dated December [4, 2001, that a habitable bedroom and [bathroom fixtures exist in the 4th floor [penthouse structure which were re-established [without benefit of building permits, in violation of [Notice of Special Restrictions No. E008502 & [Planning Code § 260(b)(1)(B).
[FOR HEARING TODAY.

ACTION: Upon motion by Vice President McInerney, the Board voted 5-0 to overrule the subject Notice of Violation, with a new Notice of Special Restrictions (NSR) to be submitted by the Planning Department, and to be adopted June 26, 2002.

SPEAKERS: Jonas Ionin, Laurence Kornfield, Brendon Wen, attorney for Appellant.

(11) **APPEAL NO. 98-117**

EDWARD R. NUNES, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[1780 Oakdale Avenue.
[Health Permit Referral determination by the [Zoning Administrator dated June 10, 1998 that [the proposed Non-conforming Commercial [Food Warehouse/Wholesale Sales use in a RH-[1 zone, will terminate at the current five-year [lease expiration on April 30, 2003.
[FOR HEARING TODAY

ACTION: Rescheduled to Call of the Chair prior to hearing.

SPEAKERS: None.

(12) **APPEAL NO. 02-042**

CALVIN LEE, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[344 Taraval Street.
[Appealing a Notice of Violation dated Feb. 26, [2002, addressed to Calvin Lee, that the 2nd [floor residential dwelling unit has been [converted to commercial use as additional [dental office space and storage without the [required conditional use (CU) authorization.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Cullum, the Board voted 5-0 to continue the matter to Call of the Chair.

SPEAKERS: None.

(13) **APPEAL NO. 02-034**

CHARLENE ATTARD, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[153 Randall Street.
[Appealing a determination dated February 25, [2002, that the proposed third-story bay window [at the front of the building violates Planning [Code § 136(c)(2).
[FOR HEARING TODAY.

ACTION: Rescheduled to Aug. 14, 2002 prior to hearing.

SPEAKERS: None.

(14) **APPEAL NO. 02-039**

ROBERT & SARAH LESKO, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING COMMISSION DISAPPROVAL

§ 14 Principals: N/A (Mandatory DR).

[51-55 Vicksburg Street.
[Appealing denial on March 13, 2002, of Site [Permit to Alter a Building (unit merger from [3-units to 1-unit, kitchen and bath remodel, [deck extension).
[APPLICATION NO. 2001/11/02/2416S.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner el Qadah, the Board voted 5-0 to overrule the Planning Commission's denial, and grant the permit with findings to be adopted June 19, 2002.

SPEAKERS: Jason Ionin, Christopher Mascone, attorney for appellant.

(15) **APPEAL NO. 01-206**

SMITH KETTLEWELL EYE RESEARCH INSTITUTE (SKERI), Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[2389 Washington Street; 2209, 2232, 2238, [2244 & 2250 Webster Street; 2472 Clay Street; [and 2318 Fillmore Street.
[Appealing determination dated October 22, [2001, that Planning Commission policies [imposing limitations on specific properties as [part of approval actions are part of the Planning [Code and thus enforceable by the Zoning [Administrator, and that the SKERI expansion [into existing structures constitutes "structural [expansion" as prohibited in Planning [Commission Motion No. 5998.
[FOR HEARING TODAY.

ACTION: Upon motion by Vice President McInerney, the Board voted 5-0 to overrule the subject determination with findings as amended.

SPEAKERS: John Sanger, Attorney, Jonas Ionin, ZA representative; Alexus M. Pelosi, Attorney.

(16) **APPEAL NO. 02-052**

OTTO WIEGAND, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[4001 Mission Street.
[Protesting the issuance on March 12, 2002, to [James O'Donovan, Permit to Demolish a [Building (one-story commercial building).
[APPLICATION NO. 2001/11/06/2561.
[FOR HEARING TODAY.

ACTION: Withdrawn by the appellant.

SPEAKERS: None.

(17) **APPEAL NO. 01-243**

ANDREW & STACEY FROST, ROBERT & MARIAN HEATH, KAREN LARSEN, MICHAEL SHANE, RONNA STONE, TIMOTHY SMITH, VERNE & ROBERT DOXEY, DAVID IRWIN, SUSAN GAMBLE, DEBORAH & H. BOYD SEYMOUR, and NANCY & ROGER BOAS, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[3352 Washington Street.
[Appealing a determination dated December [17, 2001, addressed to Alice Barkley, attorney [for owners John & Shirley Oswald, that the [proposed roof structure on the subject [property is a dormer and that it complies with [Planning Code § 261 in terms of area [limitation requirements for permitted [exceptions, and that the proposed roof height [is code complying.
[APPLICATION NO. 2000/06/16/2818.
[FOR HEARING TODAY.

ACTION: Rescheduled to Call of the Chair prior to hearing.

SPEAKERS: None.

There being no further business, President Chin adjourned the meeting at 8:00 p.m.

Arnold Y. K. Chin, President

Robert H. Feldman, Executive Secretary

Transcripts of these hearings can be obtained from Easteller Bruihl, the Official Court Reporter. Telephone: 348-0050.

Board of Appeals

June 19, 2002

BOARD OF APPEALS
CITY & COUNTY OF SAN FRANCISCO
REGULAR MEETING - WEDNESDAY, JUNE 19, 2002
5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

(1)**PUBLIC COMMENT**: At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

(2)**COMMISSIONERS COMMENTS & QUESTIONS:**

(3)**ADDENDUM ITEMS:**

ITEM A: 3560-3566 - 20th Street. Letter from Micaela Lezcano, Appellant, requesting rehearing of Appeal 01-213, Lezcano vs. DPW, decided Feb. 6, 2002. At that time, upon motion by Commissioner Cullum, the Board voted 4-0-1 (President Chin absent) to uphold the denial by the Dept. of Public Works (DPW) of a permit to remove two trees (without replacement).

ITEM B: 4201-4211 Judah Street. Letter from Andrew Zacks, attorney for Bhazubai Patel, Appellant, requesting rehearing of Appeal No. 97-165, Patel vs. ZA, decided Feb. 18, 1998. Upon motion by Commissioner Salgado, the Board voted 1-4 (President Cullum, Vice President McInerney, Commissioner Chin and Commissioner Schwartz dissented) to uphold the subject determination. Two votes are needed to uphold a departmental action, and thus the motion failed. Afterwards, upon motion by Commissioner Schwartz, the Board voted 3-2 (President Cullum and Commissioner Salgado dissented) to overrule the subject determination. Four votes being necessary to overturn any departmental action, the motion failed, and thus the subject determination was upheld. Then, on April 1, 1998, the Board considered the request for rehearing by the appellant. At that time, upon motion by Commissioner Salgado, the Board voted 2-3 (Vice President McInerney, Commissioner Chin and Commissioner Schwartz dissented) to deny the request for rehearing. Afterwards, upon motion by Vice President McInerney, the Board voted 3-2 to continue the matter to await action by the Superior Court. PUBLIC TESTIMONY HEARD APRIL 1, 1998. FOR FURTHER CONSIDERATION TODAY.

ITEM C: 1479 - 3rd Avenue. Letter from Larry Badiner, Zoning Administrator,

requesting rehearing of Appeal 01-196, Wydler vs. ZA, decided Jan. 30, 2002. Upon motion by Vice President McInerney, the Board voted 4-0-1 (Commissioner Saunders absent) to overrule the subject determination and to adopt the findings submitted by the appellant's attorney. Appellant: Aton Wydler. Determination: that use of the subject property as a 4-unit residential building is not permitted under the Planning Code, and is not considered to be a legal non-conforming use under Planning Code Sections 180 through 185.

ITEM D: 3655 Clay Street. Letter from William Stricklin, Co-Appellant, requesting rehearing of Appeal No(s). V02-058, Robbins & Stricklin vs. ZA, decided May 22, 2002. Upon motion by Vice President McInerney, the Board voted 4-0-1 (Commissioner Saunders absent) to uphold the subject variance. Variance Holder (s): Diane Harwood & Andrew Dreyfus.

ITEM E: 144 Eddy Street. Letter from Andrew Zacks, attorney for appellant Empress LLC, requesting rehearing of Appeal No. 01-082, Empress LLC vs. ZA, decided January 9, 2002. Upon motion by Commissioner Cullum, the Board voted 3-2 (President Chin & Commissioner El Qadah dissented) to uphold the subject determination. Determination Holder: Tenderloin Housing Clinic.

ITEM F: 144 Eddy Street. Proposed findings for Appeal 01-081, West Cork LLC vs. ZA, and Appeal 01-082, Empress LLC vs. ZA, decided Jan. 9, 2002. Upon motion by Commissioner Cullum, the Board voted 3-2 (President Chin & Commissioner El Qadah dissented) to uphold the subject determination. Determination Holder: Tenderloin Housing Clinic. For adoption today.

ITEM G: 51-55 Vicksburg Street. Adoption of Findings for Appeal No. 02-039, Lesko vs. DBI,

PCD, decided June 12, 2002. Upon motion by Comm. El Qadah, the Board voted 5-0 to overrule the Planning Commission's denial, and to grant the subject permit with adoption of finding on June 19, 2002.

(4) **APPEAL NO. 02-033**

GERARDO HERNANDEZ, Appellant(s)	[3165 Mission Street.
vs.	[Appealing a Notice of Violation dated February [25, 2002, addressed to Leticia Luna, that the [subject property is being used as a tow service [lot in violation of § 712.59 of the Planning Code, [which also prohibits the establishment of an [auto repair use in an NC-3 zoning district.
ZONING ADMINISTRATOR, Respondent	[FOR HEARING TODAY

ITEMS (A) & (B) SHALL BE HEARD TOGETHER:

(5A) **APPEAL NO. 98-035**

VICTOR TWAL dba "BUDDIES", Appellant (s)	[498 Sanchez Street.
vs.	[Denial on February 13, 1998, of permit to Alter [a Building (legalize awning and sign installed [without permit).

DEPT. OF BUILDING INSPECTION,
Respondent

PLANNING DEPARTMENT DISAPPROVAL

[APPLICATION NO. 9723854.

[FOR HEARING TODAY.

(5B) **APPEAL NO. 99-197**

MICHAEL CRAWFORD &

TOM HANUS, dba "CHAT CAFÉ",
Appellant(s)

vs.

DEPARTMENT OF PUBLIC WORKS,

Repondent

PLANNING DEPARTMENT
DISAPPROVAL

[498 Sanchez Street.

[Denial on December 7, 1999, of permit for 12 [chairs on sidewalk.

[FOR HEARING TODAY.

(6) **APPEAL NO. 00-096**

TREVOR FOOKS, Appellant(s)

vs.

ZONING ADMINISTRATOR, Respondent

[1623-1625 Noe Street.

[Zoning Administrator's determination dated [June 13, 2000 that under the RH-2 zoning of [the property, the illegal third basement unit of [the two-unit building must be removed, and [with certain alterations the space may remain [habitable space as part of one of the two lawful [units.

[FOR HEARING TODAY.

ITEMS (A) & (B) SHALL BE HEARD TOGETHER:

(7A) **APPEAL NO. 02-074**

THOMAS & MARY SPILLANE, Appellant (s)

vs.

DEPT. OF BUILDING INSPECTION,

Respondent

PLANNING DEPARTMENT APPROVAL

[1342 Funston Avenue.

[Protesting the issuance on April 11, 2002, to [Victoria Esmas, Site Permit to Alter a Building [(horizontal extension in rear per plans, convert [from single family to two family dwellings, new [front finish stucco to match new addition).

[APPLICATION NO. 2000/10/11/2633S.

[FOR HEARING TODAY.

(7B) **APPEAL NO. 02-077**

PATRICIA BRETZER, Appellant(s)

vs.

DEPT. OF BUILDING INSPECTION,

Respondent

PLANNING DEPARTMENT APPROVAL

[1342 Funston Avenue.

[Protesting the issuance on April 11, 2002, to [Victoria Esmas, Site Permit to Alter a Building [(horizontal extension in rear per plans, convert [from single family to two family dwellings, new [front finish stucco to match new addition).

[APPLICATION NO. 2000/10/11/2633S.

[FOR HEARING TODAY.

(8) **APPEAL NO. 02-075**

ROBERT HALLEWELL, Appellant(s)

vs.

DEPT. OF BUILDING INSPECTION,

Respondent

PLANNING COMMISSION DISAPPROVAL

§ 14 Principals: N/A (Staff Initiated DR)

[42-44 August Alley.

[Appealing the denial on April 25, 2002, of Site [Permit to Alter a Building (convert from 2 units [to single family, remove kitchen, add one bath, [revise entry doors).

[APPLICATION NO. 2001/09/21/8977.

[FOR HEARING TODAY.

(9) **APPEAL NO. 02-079**

BABA-MALOUF PROPERTIES, Appellant (s)

vs.

ZONING ADMINISTRATOR, Respondent

[1596 Howard Street.

[Appealing a determination dated April 25, [2002, addressed to Joel Yodowitz at Reuben & [Alter, that the Job Housing Linkage Program [(JHLP) Ordinance fee is applicable to the net [addition of office space proposed for the [development project at the subject property, [and that the Certificate of Final Completion & [Occupancy cannot be issued until the JHLP [fee is paid in full.

[FOR HEARING TODAY.

(10) **APPEAL NO. 01-115**

THERESA ISSERMAN, Appellant(s)

vs.

DEPT. OF BUILDING INSPECTION,

Respondent

[700 Vermont Street.

[Protesting issuance on June 20, 2001, to [Raymond & Hazel Guaraglia, Permit to Alter [a Building (demolish existing non-compliant [residential units per Notice of Violation No. [200114983; remove all

utilities to ground level; [convert to original commercial space with no [structural work to be done).

[APPLICATION NO. 2001/06/20/1935.

[FOR HEARING TODAY.

ITEMS (A) & (B) SHALL BE HEARD TOGETHER:

(11A) **APPEAL NO. 02-055**

STANLEY CHOW, Appellant(s)

vs.

DEPT. OF BUILDING INSPECTION,

Respondent

PLANNING COMMISSION DISAPPROVAL

§ 14 Principal(s): N/A (Staff Initiated DR)

[1323 - 41st Avenue.

[Appealing denial on March 29, 2002, of Permit [to Demolish a Building (two-story building, [20 feet 6 inches in height with 867sf of ground [floor area).

[APPLICATION NO. 2001/01/24/0455.

[FOR HEARING TODAY.

(11B) **APPEAL NO. 02-056**

STANLEY CHOW, Appellant(s)

vs.

DEPT. OF BUILDING INSPECTION,

Respondent

PLANNING COMMISSION DISAPPROVAL

§ 14 Principal(s): N/A (Staff Initiated DR)

[1323 - 41st Avenue.

[Appealing denial on March 29, 2002, of Site [Permit to Erect a Building (four-story, two-unit [residential building with 1,667sf of ground floor [area).

[APPLICATION NO. 2001/01/24/0457S.

[FOR HEARING TODAY.

(12) **APPEAL NO. 02-040**

SOMARTS CULTURAL CENTER, Appellant(s)

vs.

POLICE DEPARTMENT, Respondent

[934 Brannan Street.

[Appealing the expiration on March 4, 2002, of [the conditional grant of Place of Entertainment & Dance Hall Keeper Permits.

[FOR HEARING TODAY.

(13) **APPEAL NO. 02-036**

GABRIEL SANCHEZ & LORENZO AVIGNONI dba "MONARCH SCOOTERS", Appellant(s)

vs.

ZONING ADMINISTRATOR, Respondent

[1684 - 15th Street.

[Appealing a determination dated Feb. 26, [2002, addressed to Gabriel Sanchez & [Lorenzo Avignoni, that Planning Code [§ 726.61 does not allow the use of the subject [property building for sale of motor scooters, [automotive sales or rental as a principal use [within the Valencia Neighborhood Commercial [District (NCD).

[FOR HEARING TODAY.

(14) **APPEAL NO. 02-030**

FOSTER MEDIA, Appellant(s)

vs.

ZONING ADMINISTRATOR, Respondent

[50 - 8th Street.

[Appealing a determination dated February 1, [2002, addressed to Lars Skugstad at Foster [Media, that Building Permit Application No(s). [2002/01/22/7467 for a general advertising sign [at the subject property is disapproved because [the subject property is visible from and located [within 200 feet of the Market Street Special [Sign District.

[FOR HEARING TODAY.

(15) **APPEAL NO. 02-093**

FOSTER MEDIA, Appellant(s)

vs.

DEPT. OF BUILDING INSPECTION,

Respondent

PLANNING DEPT. DISAPPROVAL

§ 14 PARTIES: N/A

[198 Valencia Street.

[Appealing the denial on May 31, 2002, of [Permit to Erect a Sign (14' in height, 48' in [width, with 672sf of total surface area).

[APPLICATION NO. 2001/12/10/4877.

[FOR HEARING TODAY.

(16) **APPEAL NO. 02-076**

JAMES RANKIN, Appellant(s)

vs.

ZONING ADMINISTRATOR, Respondent

[877 Bryant Street.

[Appealing a Request for Suspension of [Building Permit Application No(s). [2002/04/08/3308, dated April 23, 2002, [addressed to Director Frank Chiu of the Dept. [of Building Inspection, for the reason that the [subject property has an

active block book [notation and the Planning Department would [like to allow the public to file for a Discretionary [Review hearing.

[FOR HEARING TODAY.

ADJOURNMENT.

Note: Each item on this agenda may include the following documents:

1. Appellant's statement and rebuttal brief.

2. Permit holder's response and rebuttal brief.

3. Department decision, permit, determination or resolution.

4. Public correspondence.

These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter. Please call 575-6880 if you have any questions concerning this agenda.

Date posted: June 13, 2002

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9/02

BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES- WEDNESDAY, JUNE 19, 2002

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

Present: President Arnold Y. K. Chin, Vice President John McInerney, Commissioner Carole Cullum, Commissioner Allam el Qadah, Commissioner Sabrina Saunders.

Judith Boyajian, Deputy City Attorney for the City Attorney (DCA); Jonas P. Ionin, Sr. Planning Officer, Zoning Administrator, Planning Department; Laurence Kornfield, Chief Building Inspector, DBI; and Robert Feldman, Executive Secretary for the Board of Appeals; Official Court Reporter, Easteller Bruihl.

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

SPEAKERS: David Grassi, general contractor for a project at 547 23rd Avenue, Appeal 01-164 spoke regarding a citation for illegal demolition where it seems clear no permit had been issued.

(2) **COMMISSIONERS COMMENTS & QUESTIONS:**

SPEAKERS: None.

DOCUMENTS DEPT.
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(3) **ADDENDUM ITEMS:**

ITEM A: 3560-3566 – 20th Street. Letter from Micaela Lezcano, Appellant, requesting rehearing of Appeal 01-213, Lezcano vs. DPW, decided Feb. 6, 2002. At that time, upon motion by Commissioner Cullum, the Board voted 4-0-1 (President Chin absent) to uphold the denial by the Dept. of Public Works (DPW) of a permit to remove two trees (without replacement).

ACTION: Upon motion by Commissioner Cullum, the Board voted 5-0 to grant the rehearing request.

SPEAKERS: Anna Lezcano, the daughter of Appellant Micaela Lezcano, explained why her mother hadn't appeared at the public hearing on February 6, 2002 and asked the Board to grant

her mother a rehearing so she can present her case. Paul Sacamano of DPW said his Department has no objection to the request.

ITEM B: 4201-4211 Judah Street. Letter from Andrew Zacks, attorney for Bhazubai Patel, Appellant, requesting rehearing of Appeal No. 97-165, Patel vs. ZA, decided Feb. 18, 1998. Upon motion by Commissioner Salgado, the Board voted 1-4 (President Cullum, Vice President McInerney, Commissioner Chin and Commissioner Schwartz dissented) to uphold the subject determination. Two votes are needed to uphold a departmental action, and thus the motion failed. Afterwards, upon motion by Commissioner Schwartz, the Board voted 3-2 (President Cullum and Commissioner Salgado dissented) to overrule the subject determination. Four votes being necessary to overturn any departmental action, the motion failed, and the subject determination was upheld. Then, on April 1, 1998, the Board considered the request for rehearing by the appellant. At that time, upon motion by Commissioner Salgado, the Board voted 2-3 (Vice President McInerney, Commissioner Chin and Commissioner Schwartz dissented) to deny the request for rehearing. Afterwards, upon motion by Vice President McInerney, the Board voted 3-2 to continue the matter to await action by the Superior Court. PUBLIC TESTIMONY HEARD APRIL 1, 1998. FOR FURTHER CONSIDERATION TODAY.

ACTION: Upon motion by Commissioner El Qadah, the Board voted 5-0 to reschedule the matter to Call of the Chair/indefinite agenda.

SPEAKERS: None.

ITEM C: 1479 – 3rd Avenue. Letter from Larry Badiner, Zoning Administrator, requesting rehearing of Appeal 01-196, Wydler vs. ZA, decided Jan. 30, 2002. Upon motion by Vice President McInerney, the Board voted 4-0-1 (Commissioner Saunders absent) to overrule the subject determination and to adopt the findings submitted by the appellant's attorney. Appellant: Aton Wydler. Determination: that use of the subject property as a 4-unit residential building is not permitted under the Planning Code, and is not considered to be a legal non-conforming use under Planning Code Sections 180 through 185.

ACTION: Upon motion by Commissioner El Qadah, the Board voted 5-0 to reschedule the matter to Aug. 14, 2002.

SPEAKERS: None.

ITEM D: 3655 Clay Street. Letter from William Stricklin, Co-Appellant, requesting rehearing of Appeal No(s). V02-058, Robbins & Stricklin vs. ZA, decided May 22, 2002. Upon motion by Vice President McInerney, the Board voted 4-0-1 (Commissioner Saunders absent) to uphold the subject variance. Variance Holder(s): Diane Harwood & Andrew Dreyfus.

ACTION: Upon motion by Commissioner Cullum, the Board voted 5-0 to deny the rehearing request.

SPEAKERS: William Stricklin, Appellant, requested a rehearing and said that the documents submitted had not been seen by the Commission. Andrew Dreyfus, the variance holder urged the Board to deny the request for lack of new evidence being offered which might justify a rehearing. Jonas Ionin, Senior Planner, spoke against the request saying that no evidence was being offered that would justify it. Steve Vettel, attorney for the variance holder, also urged the Board to deny the request and said the variance allows the owner to maintain the integrity of the architecturally significant building.

ITEM E: 144 Eddy Street. Letter from Andrew Zacks, attorney for appellant Empress LLC, requesting rehearing of Appeal No. 01-082, Empress LLC vs. ZA, decided January 9, 2002. Upon motion by Commissioner Cullum, the Board voted 3-2 (President Chin & Commissioner el Qadah dissented) to uphold the subject determination. Determination Holder: Tenderloin Housing Clinic.

ACTION: Upon motion by Commissioner El Qadah, the Board voted 2-3 (President Chin, Commissioners Cullum and Saunders dissented) to grant the rehearing request. Four votes being necessary to grant a rehearing request, the motion failed, and the rehearing request was denied.

SPEAKERS: Andrew Zacks asked the Board to grant a rehearing because the facts upon which the determination was made were unclear and there is significant new evidence to be presented which justifies a rehearing. Randy Shaw of the Tenderloin Housing Clinic said the appeal presented a clear case of abandonment of the tourist hotel use which had been closed for twenty years and it is best if left to the courts to decide. Jonas Ionin for the ZA said he agrees with the Tenderloin Housing Clinic and with no new evidence the request should be denied.

ITEM F: 144 Eddy Street. Proposed findings for Appeal 01-081, West Cork LLC vs. ZA, and Appeal 01-082, Empress LLC vs. ZA, decided Jan. 9, 2002. Upon motion by Commissioner Cullum, the Board voted 3-2 (President Chin & Commissioner El Qadah dissented) to uphold the subject determination. Determination Holder: Tenderloin Housing Clinic. For adoption today.

ACTION: Upon motion by Commissioner Cullum, the Board voted 2-3 (President Chin, Vice President McInerney, and Commisisoner El Qadah dissented) to adopt the subject findings. Three votes being necessary to adopt findings, the motion failed, and no findings were adopted for these two cases.

SPEAKERS: Andrew Zacks spoke against the adoption of the proposed findings submitted by the City Attorney since it will be the City Attorney who will represent the Board in the litigation.

ITEM G: 51-55 Vicksburg Street. Adoption of Findings for Appeal No. 02-039, Lesko vs. DBI, PCD, decided June 12, 2002. Upon motion by Commissioner El Qadah, the Board voted 5-0 to overrule the Planning Commission's denial, and to grant the subject permit with adoption of finding on June 19, 2002.

ACTION: Upon motion by President Chin, the Board voted 5-0 to reschedule the matter to July 17, 2002.

SPEAKERS: None.

(4) **APPEAL NO. 02-033**

GERARDO HERNANDEZ, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[3165 Mission Street.
[Appealing a Notice of Violation dated February [25, 2002, addressed to Leticia Luna, that the [subject property is being used as a tow service [lot in violation of § 712.59 of the Planning Code, [which also prohibits the establishment of an [auto repair use in an NC-3 zoning district.
[FOR HEARING TODAY

ACTION: Upon motion by Commissioner El Qadah, the Board voted 5-0 to reschedule the matter to Aug. 28, 2002.

SPEAKERS: None.

ITEMS (5A) & (5B) SHALL BE HEARD TOGETHER:

(5A) **APPEAL NO. 98-035**

VICTOR TWAL dba "BUDDIES", Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT DISAPPROVAL

[498 Sanchez Street.
[Denial on February 13, 1998, of permit to Alter [a Building (legalize awning and sign installed [without permit).
[APPLICATION NO. 9723854.
[FOR HEARING TODAY.

(5B) **APPEAL NO. 99-197**

MICHAEL CRAWFORD &
TOM HANUS, dba "CHAT CAFÉ", Appellant(s)
vs.
DEPARTMENT OF PUBLIC WORKS, Respondent
PLANNING DEPARTMENT DISAPPROVAL

[498 Sanchez Street.
[Denial on December 7, 1999, of permit for 12 [chairs on sidewalk.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner El Qadah, the Board voted 5-0 to reschedule the matters to Jan. 8, 2003.

SPEAKERS: None.

(6) **APPEAL NO. 00-096**

TREVOR FOOKS, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[1623-1625 Noe Street.
[Zoning Administrator's determination dated [June 13, 2000 that under the RH-2 zoning of [the property, the illegal third basement unit of [the two-unit building must be removed, and [with certain alterations the space may remain [habitable space as part of one of the two lawful [units.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner El Qadah, the Board voted 5-0 to reschedule the matter to Call of the Chair / indefinite agenda.

SPEAKERS: None.

ITEMS (7A) & (7B) SHALL BE HEARD TOGETHER:

(7A) **APPEAL NO. 02-074**

THOMAS & MARY SPILLANE, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[1342 Funston Avenue.
[Protesting the issuance on April 11, 2002, to [Victoria Esmas, Site Permit to Alter a Building [(horizontal extension in rear per plans, convert [from single family to two family dwellings, new [front finish stucco to match new addition).
[APPLICATION NO. 2000/10/11/2633S.
[FOR HEARING TODAY.

(7B) **APPEAL NO. 02-077**

PATRICIA BRETZER, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[1342 Funston Avenue.
[Protesting the issuance on April 11, 2002, to [Victoria Esmas, Site Permit to Alter a Building [(horizontal extension in rear per plans, convert [from single family to two family dwellings, new [front finish stucco to match new addition).
[APPLICATION NO. 2000/10/11/2633S.
[FOR HEARING TODAY.

ACTION: Upon motion by Vice President McInerney, the Board voted 5-0 to revoke the permit.

SPEAKERS: Thomas Spillane, co-Appellant said that fifteen unrelated adults live in the house and he is nervous about living next door. A man from the house was seen dancing naked in the yard and there is a garbage problem also. Laurence Kornfield, CBI of DBI, said he reviewed the file and there was a complaint filed in 1999. The building was called a hotel. There are many Code violations of several Codes and the matter has been sent to the City Attorney for enforcement action. He said permit was issued in error and should have been reviewed by Housing Section.

Victoria Esmas, permit holder and owner defended her use of the building and said tenants are mostly elderly and problems were all in the past and she is correcting violations. Tenants pay single rent of $2,100 a month in cash and all the tenants are citizens and not related to one another. Jonas Ionin for Planning said Planning takes no action to evict tenants and he read the definition of Boarding House from the Planning Code into the record, a conditional use in RH-2 districts. Judith Boyajian, deputy city attorney said the Department must hold the permit if there are violations of the Code on the property. Patricia Bretzer, co-Appellant spoke in support of Thomas Spillane and urged revocation.

PUBLIC COMMENT FOR APPELLANTS: Alice Debly said there have been constant Code violations and the permit should be revoked since it was issued in error.

NO PUBLIC COMMENT FOR PERMIT HOLDER.

(8) **APPEAL NO. 02-075**

ROBERT HALLEWELL, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING COMMISSION DISAPPROVAL

§ 14 Principals: N/A (Staff Initiated DR)

[42-44 August Alley.
[Appealing the denial on April 25, 2002, of Site
[Permit to Alter a Building (convert from 2 units
[to single family, remove kitchen, add one bath,
[revise entry doors).
[APPLICATION NO. 2001/09/21/8977.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner El Qadah, the Board voted 5-0 to overrule the Planning Commission's denial, and to grant the subject permit with findings.

SPEAKERS: Jonas Ionin for Planning explained that this is a merger case with staff initialed Discretionary Review by the Planning Commission. Alice Barkley, attorney for the Appellant, reviewed her proposed findings to support a motion to overrule the Commission's denial of the permit. Robert Hallewell, Appellant, said that the proposal is the best option and that no one will be displaced and the one-family configuration will be compatible with the neighborhood.

NO PUBLIC COMMENT FOR EITHER SIDE.

(9) **APPEAL NO. 02-079**

BABA-MALOUF PROPERTIES, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[1596 Howard Street.
[Appealing a determination dated April 25,
[2002, addressed to Joel Yodowitz at Reuben &
[Alter, that the Job Housing Linkage Program
[(JHLP) Ordinance fee is applicable to the net
[addition of office space proposed for the
[development project at the subject property,
[and that the Certificate of Final Completion &
[Occupancy cannot be issued until the JHLP
[fee is paid in full.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Cullum, the Board voted 3-1 (President Chin dissented) to recuse Vice President McInerney. Afterwards, upon motion by President Chin, the Board voted 4-0-1 (Vice President McInerney recused) to continue the matter to August 14, 2002 with the public hearing closed.

SPEAKERS: Jonas Ionin for Planning, said the case involves two mistakes on a ZA Determination, two incorrect dates that the Appellant should have questioned at the time since they were inconsistent with the Codes. Joel Yodowitz, attorney for the Appellant, said that the basis for their challenge is that the Appellant has a vested right to build since he reasonably relied on a valid permit and the City can't afterward try to get a fee retroactively. He cited a Supreme Court case (Avco) and he gave a chronology of the project and the permit process. Jim Baba one of the Appellants, said this is a fifty year-old family business and they had spent substantial amounts when they received their permit.

NO PUBLIC COMMENT FOR EITHER SIDE.

(10) **APPEAL NO. 01-115**

THERESA ISSERMAN, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent

[700 Vermont Street.
[Protesting issuance on June 20, 2001, to [Raymond & Hazel Guaraglia, Permit to Alter [a Building (demolish existing non-compliant [residential units per Notice of Violation No. [200114983; remove all utilities to ground level; [convert to original commercial space with no [structural work to be done).
[APPLICATION NO. 2001/06/20/1935.
[FOR HEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted 5-0 to continue the matter to October 9, 2002.

SPEAKERS: Daniel Boornstein, attorney for the Appellant, a tenant who fears displacement from a dilapidated apartment which she reported when she found out it is an illegal unit. The owner, he said, has taken advantage of the Notice of Violation to evict his tenant and the garage is used as an office. John Wylie for Permit Holder, said he would agree to the continuance of the hearing and the facts here won't allow for the grandfathering of the unit.

NO PUBLIC COMMENTS FOR EITHER SIDE.

ITEMS (11A) & (11B) SHALL BE HEARD TOGETHER:

(11A) **APPEAL NO. 02-055**

STANLEY CHOW, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING COMMISSION DISAPPROVAL

§ 14 Principal(s): N/A (Staff Initiated DR)

[1323 – 41st Avenue.
[Appealing denial on March 29, 2002, of Permit [to Demolish a Building (two-story building, [20 feet 6 inches in height with 867sf of ground [floor area).
[APPLICATION NO. 2001/01/24/0455.
[FOR HEARING TODAY.

(11B) **APPEAL NO. 02-056**

STANLEY CHOW, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING COMMISSION DISAPPROVAL

§ 14 Principal(s): N/A (Staff Initiated DR)

[1323 – 41st Avenue.
[Appealing denial on March 29, 2002, of Site [Permit to Erect a Building (four-story, two-unit [residential building with 1,667sf of ground floor [area).
[APPLICATION NO. 2001/01/24/0457S.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Cullum, the Board voted 5-0 to overrule the Planning Commission's denial, and grant the site permit with conditions. Afterwards, upon motion by President Chin, the Board voted 5-0 to overrule the Planning Commission's denial and grant the demolition permit with no conditions.

Jonas Ionin for Planning, said this is a case of violation of the Residential Design guidelines (RDG) and the Commission wants modification to the plans to reduce the size of the units so they are a better fit in the neighborhood and he opposed the project even with the changes offered by the Appellant. He urges Board to uphold Commission's decision. Patrice Fambrini of Jaidin Consulting for the Appellant, asked the Board to overrule the Commission and approve the permit since the plans meet all Code requirements even with the story the Commission wants removed. She said the revision will reduce the project to half of what it was. Charles Ng the designer for the Appellant said that both units could have tandem parking spaces and the building could be shortened by setting back twenty feet from the front and eight feet in from the rear line.

SPEAKERS: None.

PUBLIC COMMENT FOR PLANNING COMMISSION: Guy Woodruff, 1322 42nd Avenue, said she opposes the project because a four-story house is incompatible with the neighborhood. As described it is too tall and too massive and should be lowered to height of surrounding houses and she opposes any penthouse in the building. She said 98% of the neighbors oppose the project. Alice Buckley says she is boxed in enough and the proposed penthouse is too much. Heidi Smoot said she owns a house across the street from the site and the project will affect her views from her top floor but at three-stories project is okay and the tandem parking works for her. Stanley Chow, Appellant said he has a heart problem and his son would live with him so he needs the proposed configuration to accommodate son who will live in top floor unit and will care for him.

(12) **APPEAL NO. 02-040**

SOMARTS CULTURAL CENTER, Appellant(s)
vs.
POLICE DEPARTMENT, Respondent

[934 Brannan Street.
[Appealing the expiration on March 4, 2002, of [the conditional grant of Place of Entertainment & Dance Hall Keeper Permits.
[FOR HEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted 5-0 to overrule the expiration with conditions.

Sgt. William Coggan of the SFD said he still opposes the Board taking jurisdiction in this matter because an expiration is not appealable under the Charter. On the merits permit can't be approved because conditions have not been met. Jeremy Paul, consultant for the Appellant said the decision of the SFPD specifically set forth that the Appellant is a public service agency funded by the Art Commission which provides significant cultural enrichment for the City. He said DBI said there is no problem with the proposed use of the building and that the noise abatement issue is a red herring since the building is under the elevated freeway and its music can disturb no one. The new Entertainment Commission will treat these matters with more sensitivity.

NO PUBLIC COMMENT FOR SFPD:

PUBLIC COMMENT FOR APPELLANT: John Woods of the Late Night Coalition said the Appellant is a government-funded space that is used by many non-profit groups for cultural events and he urges the Board to take jurisdiction and overrule the expiration by the SFPD. Terrence Allen, Chair of the Late-Night Coalition asked to Board to take jurisdiction and see beyond the SFPD morass as the art community is in dire straits now. Michael Freeman said he has watched the arts groups close down and the Appellant is really important in this city.

SPEAKERS: None.

(13) **APPEAL NO. 02-036**

GABRIEL SANCHEZ & LORENZO AVIGNONI dba "MONARCH SCOOTERS", Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[1684 – 15th Street.
[Appealing a determination dated Feb. 26, [2002, addressed to Gabriel Sanchez & [Lorenzo Avignoni, that Planning Code [§ 726.61 does not allow the use of the subject [property building for sale of motor scooters, [automotive sales or rental as a principal use [within the Valencia Neighborhood Commercial [District (NCD).
[FOR HEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted 5-0 to reschedule the matter to July 17, 2002.

SPEAKERS: None.

(14) **APPEAL NO. 02-030**

FOSTER MEDIA, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[50 – 8th Street.
[Appealing a determination dated February 1, [2002, addressed to Lars Skugstad at Foster [Media, that Building Permit Application No(s). [2002/01/22/7467 for a general advertising sign [at the subject property is disapproved because [the subject property is visible from and located [within 200 feet of the Market Street Special [Sign District.
[FOR HEARING TODAY.

ACTION: Upon motion by Vice President McInerney, the Board voted 2-3 (Commissioners Cullum, Saunders and El Qadah dissented) to overrule the subject determination. Four votes being necessary to overrule any departmental action, the motion failed, and the subject determination was upheld.

SPEAKERS: Jonas Ionin for Planning said the proposed sign violates the Market Street Special Sign District provisions and is within 100 feet of Market Street. The applicant is measuring distance from the southern curb and not from the property line as it should be measured as shown on the zoning maps. Scott Emblige, attorney for the appellant said that reasonable men would measure from the curb and not from the property line. His client relied on the Code and got a permit. He said the Board should say the ZA erred and grant the permit. It's no fault of his client that the ZA is in error.

NO PUBLIC COMMENT FOR EITHER SIDE.

Judith Boyajian, Deputy City Attorney, said that error or no error that the Board must apply the law of Proposition G and it can't approve a general advertising sign. Board must apply the law in effect at the time of their decision. The interim controls required a conditional use authorization for all general advertising signs but now they are prohibited.

NO PUBLIC COMMENTS FOR EITHER SIDE.

(15) **APPEAL NO. 02-093**

FOSTER MEDIA, Appellant(s)
vs.

DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. DISAPPROVAL
§ 14 PARTIES: N/A

[198 Valencia Street.
[Appealing the denial on May 31, 2002, of [Permit to Erect a Sign (14' in height, 48' in [width, with 672sf of total surface area).
[APPLICATION NO. 2001/12/10/4877.
[FOR HEARING TODAY.

ACTION: Upon motion by Vice President McInerney, the Board voted 5-0 to overrule the denial by the Planning Dept., and grant the subject permit with findings.

SPEAKERS: Jonas Ionin for Planning said the application was put on hold for additional information from the applicant and the Department was not stalling their approval until Proposition G passed and all such signs were prohibited and this one would have to be disapproved. The applicant failed to provide the requested elevation. Scott Emblidge, attorney for the Applicant, said his client did respond to the planner's request on January 18, 2002. The issue is whether it is to be primarily viewed from the Central Freeway or not. It faces Duboce Street and the front of the sign faces away from the freeway. His client did move the site 40 feet to meet the Code standard. He said it looks like Planning sat on the application until Proposition G passed, prohibiting approval of new signs. Lars Skupstar of Foster Media said he moved the site 43 feet so that the sign wouldn't be seen from the freeway and he called Planning every week and the planner wouldn't return his calls.

(16) **APPEAL NO. 02-076**

JAMES RANKIN, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[877 Bryant Street.
[Appealing a Request for Suspension of [Building Permit Application No(s). [2002/04/08/3308, dated April 23, 2002, [addressed to Director Frank Chiu of the Dept. [of Building Inspection, for the reason that the [subject property has an active block book [notation and the Planning Department would [like to allow the public to file for a Discretionary [Review hearing.
[FOR HEARING TODAY.

ACTION: Upon motion by Vice President McInerney, the Board voted 4-0-1 (Commissioner Cullum absent) to overrule the subject Request for Suspension.

SPEAKERS: Jonas Ionin for Planning said that the building permit application was filed in error at the front counter and there was no search of the block books that would have turned up the Block Book Notation (BBN) that would have gotten Planning to give proper notice to the concerned neighbor who filed the BBN. He added that once this error was recognized, Planning requested that DBI suspend the permit so that notice could be given and the neighbor could request DR as set forth in Planning Code Section 351(g). It was clearly an error by the Department. Jennifer Gardella, attorney for the Appellant, said that the permit was issued within the law and there is no authorization for a suspension of a validly issued permit for failure of Planning to notify based on a BBN. Section 311 notice applies to residential projects in residential districts and here it is a commercial district. Her client is losing $10,000 per month for the property. All the issues raised by Gerri Scott have been addressed. She could have appealed the permit when it was issued and didn't.

PUBLIC COMMENT FOR ZONING ADMINISTRATOR: Eric Messersmith said that there are many issues that should be raised at a DR hearing by the neighbors. Gerri Scott said she lives in

Gilbert Street, which is a different kind of street. She said she had referred the matter on November 4 to Code Enforcement and the Appellant is now under a stop-work order. The Alcohol Beverage Control hearing has been postponed because there was no notice to people of that hearing. The site is on a 22-foot wide alley across the street from the Hall of Justice.

PUBLIC COMMENT FOR APPELLANT: Alice Barkley said Ms. Scott doesn't want anything at all in the alley.

There being no further business, President Chin adjourned the meeting at 11:25 p.m.

Arnold Y. K. Chin, President

Robert H. Feldman, Executive Secretary

Transcripts of these hearings can be obtained from Esteller Bruihl, the Official Court Reporter. Telephone: 576-0700.

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BOARD OF APPEALS

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JUN 24 2002

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CITY & COUNTY OF SAN FRANCISCO

REGULAR MEETING - WEDNESDAY, JUNE 26, 2002

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

(2) **COMMISSIONERS COMMENTS & QUESTIONS:**

(3) **SPECIAL ITEMS:**

ITEM A: 1775-1777 Yosemite Avenue & 1760 Armstrong Avenue. Reconsideration of Appeal No(s). 01-109/110/111/112, Wojak et al. vs. DBI, pursuant to Superior Court No(s). 500296, Preservation Properties vs. Board of Appeals et al.. On September 12, 2001, upon motion by Commissioner Cullum, the Board voted 4-1 (President Chin dissented) to revoke all four permits; on October 10, 2001, upon motion by Commissioner El Qadah, the Board voted 3-2 (President Chin & Commissioner McInerney dissented) to deny the request for rehearing by the permit holder.

(4) **ADDENDUM ITEMS:**

ITEM A 1001-1005 Market Street. Adoption of findings for Appeal No(s). 01-241, Lane et al. vs. ZA, decided May 15, 2002. Upon motion by Commissioner El Qadah, the Board voted 4-0-1 (Commissioner Saunders absent) to overrule the subject determination with adoption of findings at a later date.

ITEM B: 1626 Vallejo Street. Letter from Mark Borsuk, Appellant, requesting rehearing of Appeal No(s) 99-085, Borsuk vs. DBI, PDD, decided May 29, 2002. Upon motion by Commissioner Saunders, the Board voted 5-0 to uphold the denial of the subject permit by the Planning Department. Project: new deck, window and firewall.

ITEM C: 679-689 Portola Drive. Adoption of Notice of Special Restrictions for Appeal No. 01-236, Litke vs. ZA, decided June 12, 2002. Upon motion by Vice President McInerney, the Board voted 5-0 to overrule the subject Notice of Violation with a new Notice of Special Restrictions (NSR) to be submitted by the Planning Department, and to be adopted by the Board on June 26, 2002.

(5) **APPEAL NO. 02-070**

MARY BAGGENSTOSS, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent

[1257B Dolores Street.
[Protesting the issuance on April 5, 2002, to
[Anne Walzer, Permit to Alter a Building (1/4"
[sheetrock attached to shearwalls, shelf and
[structure to box in sloped cement foundation
[along north wall, plywood floor to create level
[floor).
[APPLICATION NO. 2002/04/05/3239.
[PUBLIC HEARING HELD & CLOSED JUNE 5,
[2002.
[FOR FURTHER CONSIDERATION TODAY.

ITEMS (6A) & (6B) SHALL BE HEARD TOGETHER:

(6A) **APPEAL NO. 02-026**

ADCO OUTDOOR ADVERTISING,
Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. REQUEST FOR SUSPENSION

[74 Otis Street.
[Appealing the suspension on February 12
[2002, of Permit to Erect a Sign (single
[faced wall sign 46' X 42' with 1,932sf o
[total surface area).
[APPLICATION NO. 9818016.
[PUBLIC TESTOMINY HEARD JUNE 12
[2002.
[FOR FURTHER CONSIDERATION
[TODAY.

(6B) **APPEAL NO. 02-027**

ADCO OUTDOOR ADVERTISING,
Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. REQUEST FOR SUSPENSION

[74 Otis Street.
[Appealing the suspension on February 12
[2002, of Permit to Erect a Sign (single
[faced wall sign 26' X 24' with 624sf of tota
[surface area).
[APPLICATION NO. 2000/04/26/8334.
[PUBLIC TESTOMINY HEARD JUNE 12
[2002.
[FOR FURTHER CONSIDERATION
[TODAY.

(7) **APPEAL NO. 02-063**

ERIC YOUNG
dba "SF BATTLE ZONE", Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[1968 Powell Street (583 Lombard Street).
[Appealing a Notice of Violation dated March 26, [2002, addressed to Gan Woo Wong, that the [small grocery store at the subject property has [been converted into an internet café without [benefit of a permit, in violation of Planning Code [§ 722.48 which requires conditional use (CU) [authorization for "Other Entertainment Uses" in [the North Beach Neighborhood Commercial [Zoning District.
[FOR HEARING TODAY.

(8) **APPEAL NO. 02-064**

JUAN PINEDA
& HELEN BISSON, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent

[4136 23rd Street.
[Protesting issuance on April 4, 2002, to Lynn [Thompson, Permit to Alter a Building (revision [to Building Permit Application 9911366, as built, [interior).
[APPLICATION NO. 2002/04/04/3126.
[FOR HEARING TODAY.

(9) **APPEAL NO. 01-221**

RANDOLPH & JOANNA GEORGE, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[355 Lombard Street.
[Protesting issuance on November 8, 2001, to [Donald Jans, Site Permit to Alter a Building [(install wall, as per plans, on west side of front [yard).
[APPLICATION NO. 2000/07/19/5599S.
[FOR HEARING TODAY.

(10) **APPEAL NO. 02-098**

CHRISTOPHER HIRANO, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[1790 Post Street.
[Appealing the issuance on May 22, 2002, to [1600 Webster Street Associates, Permit to [Demolish a Building (three-story building with [18, 975sf of ground floor area).
[APPLICATION NO. 2002/03/26/2362.
[FOR HEARING TODAY.

(11) **APPEAL NO. 02-085**

DEAN FRYER, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING COMMISSION DISAPPROVAL

§ 14 PARTIES: N/A (Staff Initiated DR)

[73 Mirabel Avenue.
[Appealing the denial on May 17, 2002, of [Permit to Alter a Building (remodel existing 2 [unit building to provide for a single family [residence; remove roof overhang and winding [stairs access to roof; provide 1hr firewall at top [deck level, upgrade guardrails, and provide [access ladder to roof; structural upgrades to [building).
[APPLICATION NO. 2002/01/28/7857.
[FOR HEARING TODAY.

ADJOURNMENT.

Note: Each item on this agenda may include the following documents:

1. Appellant's statement and rebuttal brief.
2. Permit holder's response and rebuttal brief.
3. Department decision, permit, determination or resolution.
4. Public correspondence.

These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter. Please call 575-6880 if you have any questions concerning this agenda.

Date posted: June 20 2002

MEMBERS OF THE BOARD OF APPEALS

ARNOLD Y.K. CHIN	PRESIDENT
JOHN E. MCINERNEY, III	VICE PRESIDENT
CAROLE S. CULLUM	COMMISSIONER
ALLAM M. EL QADAH	COMMISSIONER
SABRINA N. SAUNDERS	COMMISSIONER

EASTELLER BRUIHL - OFFICIAL COURT REPORTER 348-0050; THE PRESIDING OFFICER WILL CALL A RECESS AT 6:30 P.M. & WHENEVER NECESSARY FOR THE CONVENIENCE OF THE COURT REPORTER.

PROCEDURE AT HEARINGS

The order of presentation of an appeal shall be as follows: In the case of appeal of denials, revocations and suspensions the representatives of the department, board, commission or person from whose order the appeal is taken shall speak first and shall be allowed seven minutes for their presentation and three minutes for rebuttal.

The appellant whose permit has been denied, revoked or suspended shall be allowed seven minutes for oral argument and three minutes for rebuttal.

In the case of protest appeals, the protestor shall speak first and shall be allowed seven minutes to present oral argument and three minutes for rebuttal, and the permit holder shall be allowed seven minutes to present oral argument and three minutes for rebuttal. The Board may request a departmental response at its own discretion.

Other persons desiring to speak before the Board on an appeal may speak once for up to three minutes.

SPECIAL NOTES

Mailed notices of public hearings on appeals are sent to all parties at least five days prior to the date of hearing. In the event that a matter is continued to a specific date by the presiding officer and announced to the parties in the hearing room, no additional mailed notice will be sent. Please call the Board office at 575-6880 for scheduling or other information during regular business hours, or visit our website at www.ci.sf.ca.us/bdappeal/index.html.

Briefs are limited to twelve pages, excluding exhibits, which should be tabbed for easy reference.

The complete Rules of the Board are available for review at the Board office.

Material submitted by the public for Board review prior to a scheduled hearing before the Board, should be addressed to Arnold Y.K. Chin, President, and be received at the Board office, 1660 Mission Street, Room 3036, no later than 4:00 p.m. the Thursday (six days) prior to the scheduled public hearing. Persons unable to attend the scheduled public hearing may submit written comments regarding a calendared item to the Board office. Comments received before noon on the day of the hearing will be made a part of the official record and will be brought to the attention of the Board at the public hearing. For complete distribution to all Commissioners of the Board, necessary staff and case files, submit an original and ten copies.

Pursuant to Government Code Section 65009, if you challenge, in court, the approval of a variance or development permit, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Board of Appeals at, or prior to, the public hearing.

Calendared items are sometimes withdrawn or rescheduled to a later date prior to hearing, or are taken out of order to accommodate special needs. The Board urges all parties to be present in the hearing room from 5:00 p.m. so that everyone has an opportunity to participate in the relevant public hearing when it is called.

PROHIBITION OF SOUND-PRODUCING ELECTRONIC DEVICES

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

ACCESSIBILITY INFORMATION

American sign language interpreters and/or sound enhancement system will be available upon request by contacting Catherine Johnson at 575-6882 at least 72 hours prior to the hearing. Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call the accessibility hotline at 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals. The closest accessible BART station is the Civic Center station located at the intersection of Market, Hyde and Grove Streets. Accessible curbside parking has been designated at points along McAllister Street. Accessible MUNI lines serving City Hall are the 42 Downtown Loop, 9 San Bruno and 71 Haight/Noriega and the F line. Accessible MUNI Metro lines are the J, K, L, M, and N. For more information regarding MUNI accessible services, call (415) 923-6142.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force: Donna Hall, Sunshine Ordinance Task Force, City Hall, Room 409, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102-4683, Phone (415) 554-7724, fax (415) 554-7854, and e-mail Donna_Hall@ci.sf.ca.us. Copies of the Sunshine Ordinance can be obtained from the Clerk of the Sunshine Task Force, the San Francisco Public Library, and on the City's website at www.ci.sf.ca.us/bdsupvrs/sunshine.

LOBBYING ACTIVITY

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Campaign and Governmental Conduct Code § 2.100] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415) 581-2300; fax (415) 581-2317; web site www.sfgov.org/ethics.

COMMUNICATIONS

Note: Each item on this agenda may include the following documents:

1. Appellant's statement and rebuttal brief.
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CITY AND COUNTY OF SAN FRANCISCO
Board of Appeals
Robert H. Feldman, Executive Secretary
1660 Mission Street, Room 3036
San Francisco, California 94103
(415) 575-6880

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES - WEDNESDAY, JUNE 26, 2002

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

Present: President Arnold Y. K. Chin, Vice President John McInerney, Commissioner Carole Cullum, Commissioner Allam El Qadah, Commissioner Sabrina Saunders.

John Malamut, Deputy City Attorney for the City Attorney (DCA); Jonas P. Ionin, Sr. Planning Officer, Zoning Administrator, Planning Department; Laurence Kornfield, Chief Building Inspector, DBI; and Robert Feldman, Executive secretary for the Board of Appeals; Official Court Reporter, Easteller Bruihl.

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

SPEAKERS: Alice Barkley wished the Commissioners good luck and thanked them for the public service they have rendered as members of the Board. David Cincotta thanked the Board for its willingness to sit through long calendars and deliberate seriously to seek solutions to the land-use problems brought to it. He said that the Board was sensitive to those coming before it and he deeply appreciated the opportunity to practice in this forum and he will miss their fairness. Gerald Green, Director of Planning, thanked the Commissioners for their contribution to the City and wished them well in the future.

(2) **COMMISSIONERS COMMENTS & QUESTIONS:**

SPEAKERS: President Chin presented the official court reporter with a resolution of appreciation from the Board upon the completion of her contract for the year. The resolution was adopted unanimously. Vice President McInerney presented President Chin with a plaque from the Board thanking him for his distinguished service to the City as Board President for the past two years. Commissioner Cullum said that he has been a hands-on president for which the Board is deeply thankful. Commission El Qadah thanked President Chin for all his efforts and said his experience on this Board taught him a lot and was a great experience for him. Mayor Willie L. Brown, Jr. presented each of the five Commissioners with a framed commendation for their service to the city and expressed his deep appreciation for their work as part of his administration. Commissioner Cullum thanked the Mayor for providing them with an opportunity to have the experience of being a member of the Board. Commissioner El Qadah thanked the Mayor for giving him the opportunity of being a member of this Board and said it has been a wonderful experience playing a role in such a

diverse city. The Mayor said that he would have reappointed all five members if the Charter allowed him to but he was limited to only three appointments and he hoped to find other appointees for those who were not reappointed at this time. President Chin and Vice President McInerney asked the staff to cancel the July 10 and 17 meetings. Andrew Zacks thanked Commissions Cullum and El Qadah for their work on the Board, and he wished the other three Commissioners well. He said they have done a stellar job. Brett Gladstone thanked the Board for its service to the City, especially the two Commissioners who were leaving. He said Commission El Qadah has taken brave stands and that Commissioner Cullum had shown great sensitivity to the plight of tenants caught in the appeal process.

(3) **SPECIAL ITEMS:**

ITEM A: 1775-1777 Yosemite Avenue & 1760 Armstrong Avenue. Reconsideration of Appeal No(s). 01-109/110/111/112, Wojak et al. vs. DBI, pursuant to Superior Court No(s). 500296, Preservation Properties vs. Board of Appeals et al. On September 12, 2001, upon motion by Commissioner Cullum, the Board voted 4-1 (President Chin dissented) to revoke all four permits; on October 10, 2001, upon motion by Commissioner El Qadah, the Board voted 3-2 (President Chin & Commissioner McInerney dissented) to deny the request for rehearing by the permit holder.

ACTION: withdrawn by the City Attorney's office and the permit holder's attorney.

SPEAKERS: The Executive Secretary reported that the City Attorney has requested this item be taken off calendar since there has been no agreement between the parties and the case will be litigated.

(4) **ADDENDUM ITEMS:**

ITEM A 1001-1005 Market Street. Adoption of findings for Appeal No(s). 01-241, Lane et al. vs. ZA, decided May 15, 2002. Upon motion by Commissioner El Qadah, the Board voted 4-0-1 (Commissioner Saunders absent) to overrule the subject determination with adoption of findings at a later date.

ACTION: Upon motion by President Chin, the Board voted 5-0 to reschedule the matter to July 24, 2002.

SPEAKERS: The Executive Secretary said that the findings to be adopted were not yet ready to be considered and that they will be calendared for adoption on July 24, 2002, the next meeting of the Board.

ITEM B: 1626 Vallejo Street. Letter from Mark Borsuk, Appellant, requesting rehearing of Appeal No(s) 99-085, Borsuk vs. DBI, PDD, decided May 29, 2002. Upon motion by Commissioner Saunders, the Board voted 5-0 to uphold the denial of the subject permit by the Planning Department. Project: new deck, window and firewall.

ACTION: Upon motion by Vice President McInerney, the Board voted 4-1 (Commissioner Cullum dissented) to deny the request for rehearing.

SPEAKERS: Mark Borsuk, Appellant, asked the Board to grant him a rehearing and explained that the arbitration process hasn't yet been completed. Jonas Ionin, senior planner, said that since no new evidence was being proposed for presentation at a rehearing that Planning opposed the granting of a rehearing.

ITEM C: 679-689 Portola Drive. Adoption of Notice of Special Restrictions for Appeal No. 01-236, Litke vs. ZA, decided June 12, 2002. Upon motion by Vice President McInerney, the Board voted 5-0 to overrule the subject Notice of Violation with a new Notice of Special Restrictions (NSR) to be submitted by the Planning Department, and to be adopted by the Board on June 26, 2002.

ACTION: Upon motion by President Chin, the Board voted 5-0 to adopt the NSR as amended.

SPEAKERS: Jonas Ionin, senior planner, presented the Notice of Restrictions as amended by President Chin. Brendan Wen, attorney for the property owner said that he has no objection to the document as amended.

(5) **APPEAL NO. 02-070**

MARY BAGGENSTOSS, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent

[1257B Dolores Street.
[Protesting the issuance on April 5, 2002, to [Anne Walzer, Permit to Alter a Building (1/4" [sheetrock attached to shear walls, shelf and [structure to box in sloped cement foundation [along north wall, plywood floor to create level [floor).
[APPLICATION NO. 2002/04/05/3239.
[PUBLIC HEARING HELD & CLOSED JUNE 5, [2002.
[FOR FURTHER CONSIDERATION TODAY.

ACTION: Upon motion by Vice President McInerney, the Board voted 5-0 to continue the matter to the Call of the Chair.

SPEAKERS: Mary Baggenstoss, Appellant, reported that the mediation between the parties has not been a success and the details had to remain confidential. Andrew Zacks, attorney for the permit holder and the homeowners association agreed with the appellant's presentation and said that there are many disputed items between the homeowners and the appellant and that he feels this is the wrong forum to resolve them. Continuing this matter to the Call of the Chair is not prejudicial given the work has been done already and the delay will allow the latest arbitration to be completed. Jonas Ionin for ZA, said Planning has no objection to rescheduling the hearing.

MEETING MINUTES, BOARD OF APPEALS, JUNE 26, 2002

ITEMS (6A) & (6B) SHALL BE HEARD TOGETHER:

(6A) **APPEAL NO. 02-026**

ADCO OUTDOOR ADVERTISING, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. REQUEST FOR SUSPENSION

[74 Otis Street.
[Appealing the suspension on February 12, [2002, of Permit to Erect a Sign (single [faced wall sign 46' X 42' with 1,932sf of [total surface area).
[APPLICATION NO. 9818016.
[PUBLIC TESTOMINY HEARD JUNE 12, [2002.
[FOR FURTHER CONSIDERATION [TODAY.

(6B) **APPEAL NO. 02-027**

ADCO OUTDOOR ADVERTISING, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. REQUEST FOR SUSPENSION

[74 Otis Street.
[Appealing the suspension on February 12, [2002, of Permit to Erect a Sign (single [faced wall sign 26' X 24' with 624sf of total [surface area).
[APPLICATION NO. 2000/04/26/8334.
[PUBLIC TESTOMINY HEARD JUNE 12, [2002.
[FOR FURTHER CONSIDERATION [TODAY.

ACTION: Upon motion by Vice President McInerney, the Board voted 5-0 to continue the matter to July 24, 2002.

SPEAKERS:

(7) **APPEAL NO. 02-063**

ERIC YOUNG
dba "SF BATTLE ZONE", Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[1968 Powell Street (583 Lombard Street).
[Appealing a Notice of Violation dated March 26, [2002, addressed to Gan Woo Wong, that the [small grocery store at the subject property has [been converted into an internet café without [benefit of a permit, in violation of Planning Code [§ 722.48 which requires conditional use (CU) [authorization for "Other Entertainment Uses" in [the North Beach Neighborhood Commercial [Zoning District.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner El Qadah, the Board voted 5-0 to reschedule the matter to Aug. 14, 2002.

SPEAKERS: Jonas Ionin for the ZA requested that the appeal be rescheduled to July 24 so that the ZA can participate in the hearing.

(8) **APPEAL NO. 02-064**

JUAN PINEDA
& HELEN BISSON, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent

[4136 23rd Street.
[Protesting issuance on April 4, 2002, to Lynn
[Thompson, Permit to Alter a Building (revision
[to Building Permit Application 9911366, as built,
[interior).
[APPLICATION NO. 2002/04/04/3126.
[FOR HEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted 3-2 (Vice President McInerney & Commissioner El Qadah dissented) to uphold the permit on condition that the outer railing be pulled in 3 feet. Four votes being necessary to impose any condition on a permit, the motion failed, and the permit was upheld with no conditions.

SPEAKERS: Juan Pineda, co-Appellant, said that his co-Appellant lives next door to the subject property and her family has had their home since the 1920's. He has lived in his house three and a half years. He opposes the permit because the top deck was built without a permit. He objects to the changes at the front of the building and he feels the print description of the project is ambiguous and that there is more than interior work being done. David Cincotta, attorney for the permit holder, said that many revisions are to be made to the plans. He said that many neighbors were contacted and many support the project and that no Section 311 Notice is needed for this project. Lynn Thompson, the Permit Holder, said that her plans had been filed by her architect and she had been assured the plans met all Code provisions. She apologized to all if they don't. His client is willing to negotiate on the roof deck. She wants rail to protect her son when using the deck. Jonas Ionin for the Planning Department said that the plans met the Code and that no Section 311 notification was necessary before the permit application was approved.

NO PUBLIC COMMENT FOR EITHER SIDE:

Laurence Kornfield, CBI, DBI, said that the permit was issued over-the-counter in error and should have been routed to the Planning Department. Helen Bisson, co-Appellant, said while she no longer lives in the house she is still concerned because the roof deck reduces the value of her house and creates a fire hazard for her house since the deck railing is only five feet from her window and there is no fire proofing between the houses. Jonas Ionin, for the ZA, said that the matter has been reported to Planning and a DR request on the application has been withdrawn. Laurence Kornfield, CBI, DBI, described the railing requirements in the Building Code.

(9) **APPEAL NO. 01-221**

RANDOLPH & JOANNA GEORGE, Appellant(s)	[355 Lombard Street.
vs.	[Protesting issuance on November 8, 2001, to
DEPT. OF BUILDING INSPECTION, Respondent	[Donald Jans, Site Permit to Alter a Building [(install wall, as per plans, on west side of front [yard).
PLANNING DEPT. APPROVAL	[APPLICATION NO. 2000/07/19/5599S. [FOR HEARING TODAY.

ACTION: Upon motion by Vice President McInerney, the Board voted 5-0 to continue the matter to Oct. 9, 2002, with the public hearing closed.

SPEAKERS: Laurence Kornfield, CBI, DBI, said that the permit for the protestor's job has not yet been picked up. Steve Atkins, attorney for the Appellant, said that he opposes the project because it meets all the elements of a spite fence and he described these elements in detail. He said his client's plans had disappeared at Planning for a month and only now can a permit be issued. Donald Jans, the permit holder, said the project isn't a spite fence but is a wall necessary to protect him from the noise generated by the Appellant's spa equipment. He said he has gotten a Superior Count judgment that the spa equipment is a nuisance. Jonas Ionin for the ZA said that Section 311 notice was sent out to neighbors and a courtesy copy to the Appellant in Massachusetts.

NO PUBLIC COMMENT FOR EITHER SIDE.

(10) **APPEAL NO. 02-098**

CHRISTOPHER HIRANO, Appellant(s)	[1790 Post Street.
vs.	[Appealing the issuance on May 22, 2002, to [1600 Webster Street Associates, Permit to [Demolish a Building (three-story building with
DEPT. OF BUILDING INSPECTION, Respondent	[18, 975sf of ground floor area). [APPLICATION NO. 2002/03/26/2362.
PLANNING DEPT. APPROVAL	[FOR HEARING TODAY.

ACTION: Upon motion by Vice President McInerney, the Board voted 5-0 to recuse Vice President McInerney. Afterwards, upon motion by Commissioner Cullum, the Board voted 3-1-1 (Commissioner El Qadah dissented, Vice President McInerney recused) to continue the matter to July 24, 2002, with the Appellant to file an amended brief by June 27th at 4pm, permit holder to respond by July 1st at 4pm, and the Appellant's reply due on July 11th at 4:00 p.m.

SPEAKERS: Christopher Hirano, Appellant, said that his group had never been asked about the acceleration of the appeal hearing date from July 24 to June 26 and he asked that the Board reinstate July 24 as the hearing date so that he has time to brief the case and reply to the permit holder's brief. He said he was only asking for the rules to be followed and for no special consideration. He respects the process. Alice Barkley, attorney for the permit holders said that in her view and according to two City Attorney opinions, the Board does not have jurisdiction over this permit because the property is in a Redevelopment Project Area, unless it can be shown the permit would violate the Building Code. Issuance of the permit by the City is an administrative action with no discretion by the Board. There has been no showing of any violation and she asks that the

Board uphold the permit without any further discussion. She said the Appellant really should be negotiating with the Agency and the owners over the proposed project for the site after the demolition.

(11) **APPEAL NO. 02-085**

DEAN FRYER, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING COMMISSION DISAPPROVAL

§ 14 PARTIES: N/A (Staff Initiated DR)

[73 Mirabel Avenue.
[Appealing the denial on May 17, 2002, of [Permit to Alter a Building (remodel existing 2 [unit building to provide for a single family [residence; remove roof overhang and winding [stairs access to roof; provide 1hr firewall at top [deck level, upgrade guardrails, and provide [access ladder to roof; structural upgrades to [building).
[APPLICATION NO. 2002/01/28/7857.
[FOR HEARING TODAY.

ACTION: Upon motion by Vice President McInerney, the Board voted 5-0 to overrule the denial by the Planning Commission and grant the subject permit.

SPEAKERS: None.

There being no further business, President Chin adjourned the meeting at 9:10 p.m.

Arnold Y. K. Chin, President

Robert H. Feldman, Executive Secretary

Transcripts of these hearings can be obtained from Esteller Bruihl, the Official Court Reporter. Telephone: 348-0500.

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

REGULAR MEETING - WEDNESDAY, OCTOBER 16, 2002

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

(1) **SPECIAL ITEM(S):**

ITEM A: Drawing of lots to determine which members of the Board of Appeals shall serve two-year terms and which members shall serve four-year terms.

(2) **ELECTION OF OFFICERS.**

(3) **COMMISSIONERS COMMENTS & QUESTIONS:**

ITEM A: Discussion of case backlog, future calendars, and special sessions/meetings.

(4) **SPECIAL ITEM(S):**

ITEM A: Presentation by the Office of the City Attorney on statute, ordinance, and Charter provisions regulating commissioners.

ITEM B: Presentations by department representatives.

a) Planning Department
b) Department of Building Inspection
c) Police Department
d) Taxi Commission
e) Department of Public Works
f) Board of Appeals

(5) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

ADJOURNMENT.

Note: Each item on this agenda may include the following documents:

1) Appellant's Preliminary Statement of Appeal and Brief; 2) Respondent's or Permit holder's Response Brief; 3) Appellant's Reply; 4) Department decision, order, permit, determination, resolution, or Notice of Violation; and 5) Correspondence of public and parties.

These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter. Please call 575-6880 if you have any questions concerning this agenda.
Date posted: October 10, 2002

MEMBERS OF THE BOARD OF APPEALS

ARNOLD Y.K. CHIN	COMMISSIONER
KATHLEEN HARRINGTON	COMMISSIONER
SABRINA N. SAUNDERS	COMMISSIONER
DOUGLAS SHOEMAKER	COMMISSIONER
HISASHI B. SUGAYA	COMMISSIONER

CLAUDINE WOEBER - OFFICIAL COURT REPORTER 883-7561; THE PRESIDING OFFICER WILL CALL A RECESS AT 6:30 P.M. & WHENEVER NECESSARY FOR THE CONVENIENCE OF THE COURT REPORTER.

PROCEDURE AT HEARINGS

The order of presentation of an appeal shall be as follows: In the case of appeal of denials, revocations and suspensions the representatives of the department, board, commission or person from whose order the appeal is taken shall speak first and shall be allowed seven minutes for their presentation and three minutes for rebuttal.

The appellant whose permit has been denied, revoked or suspended shall be allowed seven minutes for oral argument and three minutes for rebuttal.

In the case of protest appeals, the protestor shall speak first and shall be allowed seven minutes to present oral argument and three minutes for rebuttal, and the permit holder shall be allowed seven minutes to present oral argument and three minutes for rebuttal. The Board may request a departmental response at its own discretion.

Other persons desiring to speak before the Board on an appeal may speak once for up to three minutes.

SPECIAL NOTES

Mailed notices of public hearings on appeals are sent to all parties at least five days prior to the date of hearing. In the event that a matter is continued to a specific date by the presiding officer and announced to the parties in the hearing room, no additional mailed notice will be sent. Please call the Board office at 575-6880 for scheduling or other information during regular business hours, or visit our website at www.sfgov.org/bdappeal

Briefs are limited to twelve pages, excluding exhibits, which should be tabbed for easy reference.

The complete Rules of the Board are available for review at the Board office.

Material submitted by the public for Board review prior to a scheduled hearing before the Board, should be addressed to the Board President, and be received at the Board office, 1660 Mission Street, Room 3036, no later than 4:00 p.m. the Thursday (six days) prior to the scheduled public hearing. Persons unable to attend the scheduled public hearing may submit written comments

regarding a calendared item to the Board office. Comments received before noon on the day of the hearing will be made a part of the official record and will be brought to the attention of the Board at the public hearing. For complete distribution to all Commissioners of the Board, necessary staff and case files, submit an original and ten copies.

Pursuant to Government Code Section 65009, if you challenge, in court, the approval of a variance or development permit, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Board of Appeals at, or prior to, the public hearing.

Calendared items are sometimes withdrawn or rescheduled to a later date prior to hearing, or are taken out of order to accommodate special needs. The Board urges all parties to be present in the hearing room from 5:00 p.m. so that everyone has an opportunity to participate in the relevant public hearing when it is called.

PROHIBITION OF SOUND-PRODUCING ELECTRONIC DEVICES

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

ACCESSIBILITY INFORMATION

American sign language interpreters and/or sound enhancement system will be available upon request by contacting Catherine Johnson at 575-6882 at least 72 hours prior to the hearing. Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call the accessibility hotline at 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals. The closest accessible BART station is the Civic Center station located at the intersection of Market, Hyde and Grove Streets. Accessible curbside parking has been designated at points along McAllister Street. Accessible MUNI lines serving City Hall are the 42 Downtown Loop, 9 San Bruno and 71 Haight/Noriega and the F line. Accessible MUNI Metro lines are the J, K, L, M, and N. For more information regarding MUNI accessible services, call (415) 923-6142.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force: Donna Hall, Sunshine Ordinance Task Force, City Hall, Room 409, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102-4683, Phone (415) 554-7724, fax (415) 554-7854, and e-mail

Donna_Hall@ci.sf.ca.us. Copies of the Sunshine Ordinance can be obtained from the Clerk of the Sunshine Task Force, the San Francisco Public Library, and on the City's website at www.ci.sf.ca.us/bdsupvrs/sunshine.

LOBBYING ACTIVITY

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Campaign and Governmental Conduct Code § 2.100] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415) 581-2300; fax (415) 581-2317; web site www.sfgov.org/ethics.

TAPES & TRANSCRIPTS OF MEETINGS & HEARINGS

Transcripts of hearings may be obtained from the Official Court Reporter, Claudine Woeber, at 883-7561.

Audiotapes of meetings may be obtained from the Board office. Please telephone 575-6880 for information.

Video tapes of selected meetings may be obtained from Citywatch, Channel 26. Please telephone 554-4188 for more information.

Note: Each item on this agenda may include the following documents:

1. Appellant's Preliminary Statement of Appeal and Brief.
2. Respondent's or Permit holder's Response Brief.
3. Appellant's Reply.
4. Department decision, order, permit, determination, resolution, or Notice of Violation.
5. Correspondence of public and parties.

These items are available for review at the Board's office, 1660 Mission St., Rm. 3036, front counter.

BOARD OF APPEALS
CITY & COUNTY OF SAN FRANCISCO
Robert H. Feldman, Executive Secretary
1660 Mission Street, Room 3036
San Francisco, California 94103
(415) 575-6880

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES - WEDNESDAY, OCTOBER 16, 2002

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

(1) **SPECIAL ITEM(S):**

ITEM A: Drawing of lots to determine which members of the Board of Appeals shall serve two-year terms and which members shall serve four-year terms.

RESULT: 2-year terms: Commissioners Chin, Saunders & Shoemaker.
4-year terms: Commissioners Harrington and Sugaya.

Gloria L. Young, Clerk of the Board of Supervisors, conducted a drawing of lots to determine which Commissioners are to serve two-year terms. After drawing, she announced that Commissioner Arnold Chin, Sabrina Saunders and Douglas Shoemaker shall serve for two years and then may be reappointed to serve for two more years. Kathleen Harrington and Hisashi Sugaya shall serve for four years and all subsequent terms shall be four years.

(2) **ELECTION OF OFFICERS.**

ACTION: Upon motion by Commissioner Saunders, the Board voted 5-0 to elect Commissioner Chin President of the Board. Afterwards, upon motion by President Chin, the Board voted 4-1 (Commissioner Shoemaker dissented) to elect Commissioner Harrington to Vice President of the Board. Officers to serve until the annual election January 15, 2003.

(3) **COMMISSIONERS COMMENTS & QUESTIONS:**

ITEM A: Discussion of case backlog, future calendars, and special sessions/meetings.

The Board discussed methods of handling the backlog of appeals with ten appeals scheduled for each meeting.

SPEAKERS: None.

(4) **SPECIAL ITEM(S):**

ITEM A: Presentation by the Office of the City Attorney on statute, ordinance, and Charter provisions regulating commissioners.

SPEAKERS: George Roberts, deputy city attorney presented a review of the Sunshine Ordinance as it affects the Board of Appeals and answered questions about it. Judith Boyagian, deputy city attorney explained the law and practice regarding ex parte contacts and answered questions.

No public comments.

MEETING MINUTES, BOARD OF APPEALS, OCTOBER 16, 2002

ITEM B: Presentations by department representatives.

a) Planning Department
b) Department of Building Inspection
c) Police Department
d) Taxi Commission
e) Department of Public Works
f) Board of Appeals

SPEAKERS (a) Gerald Green, Director of Planning Department welcomed the Board members and explained how the Planning Commission's DR decisions are appealed to the Board. Lawrence Badiner, Zoning Administrator, described his role in implementing the Planning Code and how his various enforcement actions and determinations are appealed to the Board. (b) Lawrence Kornfield described his role as representative of DBI to the Board at hearings. (c) Captain O'Neill, head of the S.F.P.D. Support Services Division and the Permit Bureau explained the permit process and how P.D. actions are appealed to the Board. (d) Naomi Little, Executive Director of the Taxi Commission explained the taxi medallions process and how the Taxi Commissions' activities are appealed to the Board and she explained the significance of the 3,000-person list of applicants for medallions, many of whom have waited 7 – 10 years. She said 1381 medallions have been issued so far. (e) Tony Walcott, the Urban Forester from the Department of Public Works, described the sidewalk tree planting and removal permit process and how the Board relates to it. (f) The executive secretary briefly described the permit review process.

(5) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

SPEAKERS: There was no public comment on the matters above. Attorney Brett Gladstone wished the Board well and welcomed the new Commissioners.

There being no further business, President Chin adjourned the meeting at 7:40.

Arnold Y. K. Chin, President

Robert H. Feldman, Executive Secretary

Transcripts of these hearings can be obtained from Claudine Woeber, the Official Court Reporter. Telephone: 883-7561.

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

REGULAR MEETING - WEDNESDAY, OCTOBER 23, 2002

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

(2) **COMMISSIONERS COMMENTS & QUESTIONS:**

(3) **CONSENT ITEMS (DBI PENALTY):** With the consent of the Department of Building Inspection, the Board will proceed to a vote without testimony to reduce the penalty (investigation fee) to two times the regular fee as provided for in the Building Code. Without consent the Board will take testimony and then decide the appeal.

(3A) **APPEAL NO. 02-080**

CHRISTINA KUNG, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[1000 Cabrillo Street.
[Appeal for refund of penalty imposed on May 2,
[2002 for work done without a permit.
[APPLICATION NO. 2002/01/29/7919.
[FOR HEARING TODAY.

(3B) **APPEAL NO. 02-087**

BARBARA SAVITZ, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[230 Duncan Street.
[Appeal for refund of penalty imposed on May 6,
[2002, for work done without a permit.
[APPLICATION NO. 2002/04/22/4645.
[FOR HEARING TODAY.

(3C) **APPEAL NO. 02-091**

ROBERT HINDI, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[120 Elsie Street.
[Appeal for refund of penalty imposed on
[May 29, 2002, for work done without a permit.
[APPLICATION NO. 2002/03/19/1736.
[FOR HEARING TODAY.

(3D) **APPEAL NO. 02-102**

ELLEN KERMAN, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[248 Thrift Street.
[Appeal for refund of penalty imposed on
[June 11, 2002, for work done without a permit.
[APPLICATION NO. 2002/05/20/6955.
[FOR HEARING TODAY.

(3E) **APPEAL NO. 02-126**

KANG WEN CHING, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[8 Teddy Avenue.
[Appealing the imposition of penalty on July 10,
[2002, for work done without a permit.
[APPLICATION NO. 2002/06/21/9737.
[FOR HEARING TODAY.

(3F) **APPEAL NO. 02-151**

YOUNG K. CHO, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[822 Persia Avenue.
[Appeal for refund of penalty imposed on
[August 7, 2002, for work done without a permit.
[APPLICATION NO. 2002/07/23/2056.
[FOR HEARING TODAY.

(3G) **APPEAL NO. 02-165**

BILL SALMON, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[2112 Baker Street.
[Appeal for refund of penalty imposed or
[August 21, 2002, for work done without a
[permit.
[APPLICATION NO. 2001/05/21/9594S.
[FOR HEARING TODAY.

(3H) **APPEAL NO. 02-175**

JAWAD J. MUHAWIEH, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[1148 Alabama Street.
[Appeal for refund of penalty imposed on Augus
[27, 2002, for work done without a permit.
[APPLICATION NO. 2002/08/14/3907
[FOR HEARING TODAY.

(3I) **APPEAL NO. 02-186**

CARMEN MURPHY, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[240 Judson Avenue.
[Appealing the imposition of penalty or
[September 16, 2002, for work done without a
[permit.
[APPLICATION NO. 2002/07/25/2384.
[FOR HEARING TODAY.

(4) **CONSENT ITEMS (POLICE REVOCATION):** With the consent of the Police Department, the Board will proceed to a vote without testimony to overrule the revocation of the subject permit(s) with the condition that the appellants pay all appropriate permit fees. Without consent the Board will take testimony and then decide the appeal.

(4A) **APPEAL NO. 02-184**

MINEY LLC dba
"CURVE BAR & RESTAURANT", Appellant(s)
vs.
POLICE DEPARTMENT, Respondent

[747 – 3rd Street.
[Appealing the revocation on August 28, 2002,
[of Place of Entertainment/Dance Hall Keeper
[Permit due to non-payment of fees.
[ACCOUNT NO. 1155.
[FOR HEARING TODAY.

(4B) **APPEAL NO. 02-188**

YONG MOOSE, Appellant(s)
vs.
POLICE DEPARTMENT, Respondent

[Appealing the revocation on August 28, 2002,
[of Outcall Massage Service Permit due to non-payment of fees.
[ACCOUNT NO. 140.
[FOR HEARING TODAY.

(4C) **APPEAL NO. 02-189**

YONG MOOSE, Appellant(s)
vs.
POLICE DEPARTMENT, Respondent

[Appealing the revocation on August 28, 2002,
[of Masseuse Permit due to non-payment of
[fees.
[ACCOUNT NO. 151.
[FOR HEARING TODAY.

(5) **JURISDICTION REQUESTS:**

ITEM A: 41 Teddy Avenue. Letter from Wenson Bonifacio, Requestor, asking that the Board take jurisdiction over Building Permit Application No(s). 2001/12/05/4585. Permit Holder(s): James Myers. Project: remove temporary walls, stove installed by tenant, return space to garage, comply with NOV # 200121953.

Date Permit Issued:	April 2, 2002.
Last Day to Appeal:	April 17, 2002
Jurisdiction Request Received:	June 5, 2002

(5) JURISDICTION REQUESTS (CONTINUED):

ITEM B: 3646 Baker Street. Letter from George Lippi, Requestor/Permit Holder, asking that the Board take jurisdiction over Building Permit Application No(s). 2002/01/08/6448 for the purpose of filing a penalty appeal.

Date Permit Issued:	January 17, 2002.
Last Day to Appeal:	February 1, 2002
Jurisdiction Request Received:	June 18, 2002

ITEM C: 5 Florida Street. Letter from Ha Ly, Requestor, asking that the Board take jurisdiction over the approval by the Police Dept. of an additional stop in front of the subject property for mobile catering truck no. 21. Mobile Catering Truck Permit Holder(s): Rosaana Li.

Date of Request for Additional Stop:	April 29, 2002
Date of Approval for Additional Stop:	Unknown; according to Police Permit Bureau, approval was given shortly after request filed.
Date of Jurisdiction Request:	July 15, 2002

ITEM D: 706 Wisconsin Street. Letter from Christopher Parber & Maria Esther Gonzalez-Parber, requesting that the Board take jurisdiction over Building Permit Application No(s). 2002/08/06/3220. Permit Holder(s): Tom McDonald. Project: remodel kitchen, bathrooms, repair rear deck.

Date Permit(s) Issued:	August 6, 2002
Last Day to Appeal:	August 21, 2002
Jurisdiction Request(s) Received:	August 23, 2002

ITEM E: 2937 Balboa Street. Letter from Gene Keenan, Requestor, asking that the Board take jurisdiction over Building Permit Application No(s). 2001/02/27/2987. Permit Holder(s): Ting Jong Yuen. Project: add extension at rear of existing building.

Date Permit Issued:	August 26, 2002.
Last Day to Appeal:	September 10, 2002
Jurisdiction Request Received:	September 16, 2002

(5) **JURISDICTION REQUESTS (CONTINUED):**

ITEM F: 740 Vermont Street. Letter from Carl Maletic, Agent for Requestor Mario Benassini, asking that the Board take jurisdiction over Variance Case No. 2002.0840V. Variance Holder(s): Joyce Book. Project: rear yard variance in order to reconstruct a non-complying portion of a single-family dwelling (with respect to rear yard) which was voluntarily removed.

Date Variance Granted:	Sept. 5, 2002.
Last Day to Appeal:	September 15, 2002
Jurisdiction Request Received:	September 30, 2002

(6) **REHEARING REQUESTS:**

ITEM A: 1479 – 3rd Avenue. Letter from Larry Badiner, Zoning Administrator, requesting rehearing of Appeal 01-196, Wydler vs. ZA, decided Jan. 30, 2002. Upon motion by Vice President McInerney, the Board voted 4-0-1 (Commissioner Saunders absent) to overrule the subject determination and to adopt the findings submitted by the appellant's attorney. Appellant: Aton Wydler. Determination: that use of the subject property as a 4-unit residential building is not permitted under the Planning Code, and is not considered to be a legal non-conforming use under Planning Code Sections 180 through 185.

ITEM B: 1478 Page Street. Letter from Katherine Roberts, Co-Appellant, requesting rehearing of Appeal No(s). 02-067, Roberts & Dyer vs. DPW, decided June 5, 2002. Upon Motion by Commissioner Cullum, the Board voted 5-0 to uphold the subject permit. Project: remove and replace one tree with an "in-lieu" fee condition. Permit Holder(s): Michael Farr.

ITEM C: 1514 Waller Street. Letter from Katherine Roberts, Co-Appellant, requesting rehearing of Appeal No(s). 02-054, Roberts & Dyer vs. DPW, decided June 5, 2002. Upon Motion by Commissioner Saunders, the Board voted 5-0 to uphold the subject permit. Project: remove one tree without replacement. Permit Holder(s): Brendon McKenna.

ITEM D: Taxicab medallion no(s). 129. letter from John Feldmann III, Attorney for David Adams, Appellant, requesting rehearing of Appeal No(s). 02-020, Adams vs. Taxi Commission, decided June 12, 2002. Upon motion by Commissioner Cullum, the Board voted 3-2 (President Chin & Commissioner El Qadah dissented) to dismiss the case for lack of subject matter jurisdiction.

(7) **APPEAL NO. V02-158**

JIM MEKO, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[1346 Folsom Street / 75 Dore Street.
[Protesting the granting on August 5, 2002, to [Citizens Housing Corporation, Parking & Rear [Yard Variance(s) (construction of a new [building that would be built within the required [rear yard, and would include only 16 parking [spaces where 98 parking spaces would be [otherwise required).
[VARIANCE CASE NO. 2002.0261V.
[FOR HEARING TODAY.

Note: Each item on this agenda may include the following documents:

1) Appellant's Preliminary Statement of Appeal and Brief; 2) Respondent's or Permit holder's Response Brief; 3) Appellant's Reply; 4) Department decision, order, permit, determination resolution, or Notice of Violation; and 5) Correspondence of public and parties.

These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter. Please call 575-6880 if you have any questions concerning this agenda.

Date posted: October 17, 2002

MEMBERS OF THE BOARD OF APPEALS

ARNOLD Y.K. CHIN	PRESIDENT
KATHLEEN HARRINGTON	VICE PRESIDENT
SABRINA N. SAUNDERS	COMMISSIONER
DOUGLAS SHOEMAKER	COMMISSIONER
HISASHI B. SUGAYA	COMMISSIONER

CLAUDINE WOEBER - OFFICIAL COURT REPORTER 883-7561; THE PRESIDING OFFICER WILL CALL A RECESS AT 6:30 P.M. & WHENEVER NECESSARY FOR THE CONVENIENCE OF THE COURT REPORTER.

PROCEDURE AT HEARINGS

The order of presentation of an appeal shall be as follows: In the case of appeal of denials, revocations and suspensions the representatives of the department, board, commission or person from whose order the appeal is taken shall speak first and shall be allowed seven minutes for their presentation and three minutes for rebuttal.

The appellant whose permit has been denied, revoked or suspended shall be allowed seven minutes for oral argument and three minutes for rebuttal.

In the case of protest appeals, the protestor shall speak first and shall be allowed seven minutes to present oral argument and three minutes for rebuttal, and the permit holder shall be allowed seven minutes to present oral argument and three minutes for rebuttal. The Board may request a departmental response at its own discretion.

Other persons desiring to speak before the Board on an appeal may speak once for up to three minutes.

SPECIAL NOTES

Mailed notices of public hearings on appeals are sent to all parties at least five days prior to the date of hearing. In the event that a matter is continued to a specific date by the presiding officer and announced to the parties in the hearing room, no additional mailed notice will be sent. Please call the Board office at 575-6880 for scheduling or other information during regular business hours, or visit our website at www.sfgov.org/bdappeal

Briefs are limited to twelve pages, excluding exhibits, which should be tabbed for easy reference.

The complete Rules of the Board are available for review at the Board office.

Material submitted by the public for Board review prior to a scheduled hearing before the Board, should be addressed to the Board President, and be received at the Board office, 1660 Mission Street, Room 3036, no later than 4:00 p.m. the Thursday (six days) prior to the scheduled public hearing. Persons unable to attend the scheduled public hearing may submit written comments

regarding a calendared item to the Board office. Comments received before noon on the day of the hearing will be made a part of the official record and will be brought to the attention of the Board at the public hearing. For complete distribution to all Commissioners of the Board, necessary staff and case files, submit an original and ten copies.

Pursuant to Government Code Section 65009, if you challenge, in court, the approval of a variance or development permit, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Board of Appeals at, or prior to, the public hearing.

Calendared items are sometimes withdrawn or rescheduled to a later date prior to hearing, or are taken out of order to accommodate special needs. The Board urges all parties to be present in the hearing room from 5:00 p.m. so that everyone has an opportunity to participate in the relevant public hearing when it is called.

PROHIBITION OF SOUND-PRODUCING ELECTRONIC DEVICES

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

ACCESSIBILITY INFORMATION

American sign language interpreters and/or sound enhancement system will be available upon request by contacting Catherine Johnson at 575-6882 at least 72 hours prior to the hearing. Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call the accessibility hotline at 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals. The closest accessible BART station is the Civic Center station located at the intersection of Market, Hyde and Grove Streets. Accessible curbside parking has been designated at points along McAllister Street. Accessible MUNI lines serving City Hall are the 42 Downtown Loop, 9 San Bruno and 71 Haight/Noriega and the F line. Accessible MUNI Metro lines are the J, K, L, M, and N. For more information regarding MUNI accessible services, call (415) 923-6142.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force: Donna Hall, Sunshine Ordinance Task Force, City Hall, Room 409, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102-4683, Phone (415) 554-7724, fax (415) 554-7854, and e-mail

Donna_Hall@ci.sf.ca.us. Copies of the Sunshine Ordinance can be obtained from the Clerk of the Sunshine Task Force, the San Francisco Public Library, and on the City's website at www.ci.sf.ca.us/bdsupvrs/sunshine.

LOBBYING ACTIVITY

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Campaign and Governmental Conduct Code § 2.100] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415) 581-2300; fax (415) 581-2317; web site www.sfgov.org/ethics.

TAPES & TRANSCRIPTS OF MEETINGS & HEARINGS

Transcripts of hearings may be obtained from the Official Court Reporter, Claudine Woeber, at 883-7561.

Audiotapes of meetings may be obtained from the Board office. Please telephone 575-6880 for information.

Video tapes of selected meetings may be obtained from Citywatch, Channel 26. Please telephone 554-4188 for more information.

Note: Each item on this agenda may include the following documents:

1. Appellant's Preliminary Statement of Appeal and Brief.
2. Respondent's or Permit holder's Response Brief.
3. Appellant's Reply.
4. Department decision, order, permit, determination, resolution, or Notice of Violation.
5. Correspondence of public and parties.

These items are available for review at the Board's office, 1660 Mission St., Rm. 3036, front counter.

BOARD OF APPEALS
CITY & COUNTY OF SAN FRANCISCO
Robert H. Feldman, Executive Secretary
1660 Mission Street, Room 3036
San Francisco, California 94103
(415) 575-6880

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES - WEDNESDAY, OCTOBER 23, 2002

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

Present: President Arnold Y. K. Chin, Vice President Kathleen Harrington, Commissioner Sabrina Saunders, Commissioner Douglas Shoemaker, and Commissioner Hisashi Sugaya.

Judith Boyajian, Deputy City Attorney (DCA); Lawrence Badiner, Zoning Administrator, Planning Department; Laurence Kornfield, Chief Building Inspector, DBI; and Robert Feldman, Executive Secretary for the Board of Appeals; Official Court Reporter, Claudine Woeber.

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

SPEAKERS: None.

DOCUMENTS DEPT.

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(2) **COMMISSIONERS COMMENTS & QUESTIONS:**

SPEAKERS: None.

(3) **CONSENT ITEMS (DBI PENALTY):** With the consent of the Department of Building Inspection, the Board will proceed to a vote without testimony to reduce the penalty (investigation fee) to two times the regular fee as provided for in the Building Code. Without consent the Board will take testimony and then decide the appeal.

(3A) **APPEAL NO. 02-080**

CHRISTINA KUNG, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[1000 Cabrillo Street.
[Appeal for refund of penalty imposed on May 2,
[2002 for work done without a permit.
[APPLICATION NO. 2002/01/29/7919.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Saunders, the Board voted 4-0 to recuse President Chin. Afterwards, upon motion by Commissioner Saunders, the Board voted 4-0-1 (President Chin recused) to reduce the subject penalty to 3 times the regular fee.

SPEAKERS: Christina Kung, Appellant, explained why she did not obtain a permit for the work she had done and asked the Board to reduce the penalty since she hadn't known about the permit process and had relied on her architect and contractor. Laurence Kornfield, CBI, DBI, explained the history of the case and why the penalty was imposed by the Department.

(3B) **APPEAL NO. 02-087**

BARBARA SAVITZ, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[230 Duncan Street.
[Appeal for refund of penalty imposed on May 6,
[2002, for work done without a permit.
[APPLICATION NO. 2002/04/22/4645.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Saunders, the Board voted 5-0 to reduce the subject penalty to 2 times the regular fee.

SPEAKERS: None.

(3C) **APPEAL NO. 02-091**

ROBERT HINDI, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[120 Elsie Street.
[Appeal for refund of penalty imposed on
[May 29, 2002, for work done without a permit.
[APPLICATION NO. 2002/03/19/1736.
[FOR HEARING TODAY.

ACTION: This matter was rescheduled to Nov. 6, 2002 prior to the meeting.

SPEAKERS: None.

(3D) **APPEAL NO. 02-102**

ELLEN KERMAN, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[248 Thrift Street.
[Appeal for refund of penalty imposed on
[June 11, 2002, for work done without a permit.
[APPLICATION NO. 2002/05/20/6955.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Saunders, the Board voted 5-0 to reduce the subject penalty to 2 times the regular fee.

SPEAKERS: None.

(3E) **APPEAL NO. 02-126**

KANG WEN CHING, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[8 Teddy Avenue.
[Appealing the imposition of penalty on July 10,
[2002, for work done without a permit.
[APPLICATION NO. 2002/06/21/9737.
[FOR HEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted 5-0 to reduce the subject penalty to 3 times the regular fee.

SPEAKERS: Kang Wen Ching and a translator asked the Board to reduce the penalty since he hadn't been aware of the need for a permit to add a stove and a bathtub in the basement of his house. Laurence Kornfield, CBI, DBI, explained the new policy of the Department to limit penalties to two times the permit fee in cases where scope of work has exceeded the approved plans.

(3F) **APPEAL NO. 02-151**

YOUNG K. CHO, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[822 Persia Avenue.
[Appeal for refund of penalty imposed on
[August 7, 2002, for work done without a permit.
[APPLICATION NO. 2002/07/23/2056.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Saunders, the Board voted 5-0 to reduce the subject penalty to 2 times the regular fee.

SPEAKERS: Young K. Cho, contractor for owner, asked the Board to reduce the penalty because he has just begun his contractor's business and had made an honest mistake that he would never make again. Laurence Kornfield, CBI, DBI, explained the practice of the department to impose maximum penalties on professionals, contractors and architects who know the Building Code and its requirements.

(3G) **APPEAL NO. 02-165**

BILL SALMON, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[2112 Baker Street.
[Appeal for refund of penalty imposed on
[August 21, 2002, for work done without a
[permit.
[APPLICATION NO. 2001/05/21/9594S.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Saunders, the Board voted 5-0 to reduce the subject penalty to 2 times the regular fee.

SPEAKERS: None.

(3H) **APPEAL NO. 02-175**

JAWAD J. MUHAWIEH, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[1148 Alabama Street.
[Appeal for refund of penalty imposed on August
[27, 2002, for work done without a permit.
[APPLICATION NO. 2002/08/14/3907
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Saunders, the Board voted 5-0 to reduce the subject penalty to 2 times the regular fee.

SPEAKERS: None.

(3I) **APPEAL NO. 02-186**

CARMEN MURPHY, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[240 Judson Avenue.
[Appealing the imposition of penalty on
[September 16, 2002, for work done without a
[permit.
[APPLICATION NO. 2002/07/25/2384.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Saunders, the Board voted 5-0 to reduce the subject penalty to 2 times the regular fee.

SPEAKERS: None.

(4) **CONSENT ITEMS (POLICE REVOCATION):** With the consent of the Police Department, the Board will proceed to a vote without testimony to overrule the revocation of the subject permit(s) with the condition that the appellants pay all appropriate permit fees. Without consent the Board will take testimony and then decide the appeal.

(4A) **APPEAL NO. 02-184**

MINEY LLC dba
"CURVE BAR & RESTAURANT", Appellant(s)
vs.
POLICE DEPARTMENT, Respondent

[747 – 3rd Street.
[Appealing the revocation on August 28, 2002,
[of Place of Entertainment/Dance Hall Keeper
[Permit due to non-payment of fees.
[ACCOUNT NO. 1155.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Shoemaker & Vice President Harrington, the Board voted 5-0 to reschedule the matter to November 6, 2002 at the request of the appellant with the agreement of the respondent.

SPEAKERS: None.

(4B) **APPEAL NO. 02-188**

YONG MOOSE, Appellant(s)
vs.
POLICE DEPARTMENT, Respondent

[Appealing the revocation on August 28, 2002,
[of Outcall Massage Service Permit due to non-payment of fees.
[ACCOUNT NO. 140.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Sugaya, the Board voted 5-0 to overrule the revocation on condition that the appellant pay the permit fees and submit a receipt to the police permit bureau.

SPEAKERS: None.

(4C) **APPEAL NO. 02-189**

YONG MOOSE, Appellant(s)
vs.
POLICE DEPARTMENT, Respondent

[Appealing the revocation on August 28, 2002,
[of Masseuse Permit due to non-payment of
[fees.
[ACCOUNT NO. 151.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Sugaya, the Board voted 5-0 to overrule the revocation on condition that the appellant pay the permit fees and submit a receipt to the police permit bureau.

SPEAKERS: None.

(5) **JURISDICTION REQUESTS:**

ITEM A: 41 Teddy Avenue. Letter from Wenson Bonifacio, Requestor, asking that the Board take jurisdiction over Building Permit Application No(s). 2001/12/05/4585. Permit Holder(s): James Myers. Project: remove temporary walls, stove installed by tenant, return space to garage, comply with NOV # 200121953.

Date Permit Issued:	April 2, 2002.
Last Day to Appeal:	April 17, 2002
Jurisdiction Request Received:	June 5, 2002

ACTION: Withdrawn by the requestor.

ITEM B: 3646 Baker Street. Letter from George Lippi, Requestor/Permit Holder, asking that the Board take jurisdiction over Building Permit Application No(s). 2002/01/08/6448 for the purpose of filing a penalty appeal.

Date Permit Issued:	January 17, 2002.
Last Day to Appeal:	February 1, 2002
Jurisdiction Request Received:	June 18, 2002

ACTION: Upon motion by President Chin, the Board voted 5-0 to grant the jurisdiction request.

SPEAKERS: George Lippi, Requestor, asked the Board to allow him to appeal the penalty imposed on him for the reason it hadn't been explained to him that an appeal was possible at the time he took out the permit to repair the deck on his building.

ITEM C: 5 Florida Street. Letter from Ha Ly, Requestor, asking that the Board take jurisdiction over the approval by the Police Dept. of an additional stop in front of the subject property for mobile catering truck no. 21. Mobile Catering Truck Permit Holder(s): Rosaana Li.

Date of Request for Additional Stop:	April 29, 2002
Date of Approval for Additional Stop:	Unknown; according to Police Permit Bureau, approval was given shortly after request filed.
Date of Jurisdiction Request:	July 15, 2002

ACTION: Upon motion by Commissioner Saunders, the Board voted 5-0 to reschedule the matter to Nov. 6, 2002.

SPEAKERS: None.

ITEM D: 706 Wisconsin Street. Letter from Christopher Parber & Maria Esther Gonzalez-Parber, requesting that the Board take jurisdiction over Building Permit Application No(s). 2002/08/06/3220. Permit Holder(s): Tom McDonald. Project: remodel kitchen, bathrooms, repair rear deck.

Date Permit(s) Issued:	August 6, 2002
Last Day to Appeal:	August 21, 2002
Jurisdiction Request(s) Received:	August 23, 2002

ACTION: Upon motion by Vice President Harrington, the Board voted 5-0 to reschedule the matter to Nov. 13, 2002 at the request of the parties.

SPEAKERS: None.

ITEM E: 2937 Balboa Street. Letter from Gene Keenan, Requestor, asking that the Board take jurisdiction over Building Permit Application No(s). 2001/02/27/2987. Permit Holder(s): Ting Jong Yuen. Project: add extension at rear of existing building.

Date Permit Issued:	August 26, 2002.
Last Day to Appeal:	September 10, 2002
Jurisdiction Request Received:	September 16, 2002

ACTION: Upon motion by Commissioner Saunders, the Board voted 5-0 to deny the jurisdiction request.

SPEAKERS: Steven Whiting, agent for the permit holder, asked the Board to allow appeal to be filed.

ITEM F: 740 Vermont Street. Letter from Carl Maletic, Agent for Requestor Mario Benassini, asking that the Board take jurisdiction over Variance Case No. 2002.0840V. Variance Holder(s): Joyce Book. Project: rear yard variance in order to reconstruct a non-complying portion of a single-family dwelling (with respect to rear yard) which was voluntarily removed.

Date Variance Granted:	Sept. 5, 2002.
Last Day to Appeal:	September 15, 2002
Jurisdiction Request Received:	September 30, 2002

ACTION: Upon motion by Commissioner Sugaya, the Board voted 5-0 to deny the jurisdiction request.

SPEAKERS: Carl Maletic said he is the agent-architect for his clients who live in house adjacent to the subject property and client has broken no rules and permit holder has. Joel Yodowitz, attorney for the Variance Holder said that the requestor had put forward no reason why his appeal wasn't filed on time but clearly shows he is suspicious of the variance holder even though his client has appeared three times at public hearings on her project and that all parties were present at the variance hearing. Jonas Ionin, Senior Planner for the Zoning Administrator said that he was not present at the variance hearing.

(6) **REHEARING REQUESTS:**

ITEM A: 1479 – 3rd Avenue. Letter from Larry Badiner, Zoning Administrator, requesting rehearing of Appeal 01-196, Wydler vs. ZA, decided Jan. 30, 2002. Upon motion by Vice President McInerney, the Board voted 4-0-1 (Commissioner Saunders absent) to overrule the subject determination and to adopt the findings submitted by the appellant's attorney. Appellant: Aton Wydler. Determination: that use of the subject property as a 4-unit residential building is not permitted under the Planning Code, and is not considered to be a legal non-conforming use under Planning Code Sections 180 through 185.

ACTION: Upon motion by Commissioner Shoemaker, the Board voted 5-0 to reschedule the matter to October 30, 2002 at the request of all parties.

SPEAKERS: None.

ITEM B: 1478 Page Street. Letter from Katherine Roberts, Co-Appellant, requesting rehearing of Appeal No(s). 02-067, Roberts & Dyer vs. DPW, decided June 5, 2002. Upon Motion by Commissioner Cullum, the Board voted 5-0 to uphold the subject permit. Project: remove and replace one tree with an "in-lieu" fee condition. Permit Holder(s): Michael Farr.

ACTION: Upon motion by Commissioner Saunders, the Board voted 5-0 to deny the rehearing request.

SPEAKERS: Tony Walcott, Urban Forester for DPW, said that the in-lieu fee had been paid in both cases and described the process.

ITEM C: 1514 Waller Street. Letter from Katherine Roberts, Co-Appellant, requesting rehearing of Appeal No(s). 02-054, Roberts & Dyer vs. DPW, decided June 5, 2002. Upon Motion by Commissioner Saunders, the Board voted 5-0 to uphold the subject permit. Project: remove one tree without replacement. Permit Holder(s): Brendon McKenna.

ACTION: Upon motion by Commissioner Sugaya, the Board voted 5-0 to deny the rehearing request.

SPEAKERS: None.

ITEM D: Taxicab medallion no(s). 129. letter from John Feldmann III, Attorney for David Adams, Appellant, requesting rehearing of Appeal No(s). 02-020, Adams vs. Taxi Commission, decided June 12, 2002. Upon motion by Commissioner Cullum, the Board voted 3-2 (President Chin & Commissioner El Qadah dissented) to dismiss the case for lack of subject matter jurisdiction.

ACTION: Matter rescheduled to Nov. 13, 2002 prior to hearing.

SPEAKERS: None.

(7) **APPEAL NO. V02-158**

JIM MEKO, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[1346 Folsom Street / 75 Dore Street.
[Protesting the granting on August 5, 2002, to [Citizens Housing Corporation, Parking & Rear [Yard Variance(s) (construction of a new [building that would be built within the required [rear yard, and would include only 16 parking [spaces where 98 parking spaces would be [otherwise required).
[VARIANCE CASE NO. 2002.0261V.
[FOR HEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted 5-0 to recuse Commissioner Shoemaker. Afterwards, upon motion by President Chin, the Board voted 4-0-1 (Commissioner Shoemaker recused) to uphold the subject variance with a finding that priority in the car share program should go to residents, and with notice of the private agreement dated October 23, 2002. to all parties.

SPEAKERS: Judith Boyajian, Deputy City Attorney explained the rules of conflict of interest in response to a Commissioner's question. Jim Meko, Appellant, explained that he doesn't oppose the project and that an agreement has been reached between the project sponsor and the community that he was comfortable with although Permit Holder had neglected to deal with the community for six months. He described the affect of the project on the residential and business neighbors and that the twelve conditions of the agreement would ameliorate the effects of the construction. Jim Buckley, representing the Permit Holder addressed the landmark issue and noted that the project had been before the Landmarks Board and that a federal 106 report has been done which found that the project would have no adverse effects. He also explained the proposed car share program imposed by the ZA as a condition for granting the parking variance. Molly Brennan, attorney for the Permit Holder spoke in rebuttal for the Permit Holder and said that the project architect was present and could answer design questions.

PUBLIC COMMENT FOR APPELLANT: Roger Miles explained that Planning had told him the building would not extend beyond the boundary but now it seems all his tenants will face a blank wall and they are vacating his building. He feels too much parking is being waived by the variance. Fred Schell said that his building is just one story in height and the proposed building will put his in shadow. He feels the project is not right for the neighborhood and should provide 98 parking spaces.

PUBLIC COMMENT FOR ZONING ADMINISTRATOR AND PROJECT: Patricia Kemerling of Association of Retarded Citizens (ARC) explained that this kind of housing is sorely needed by the disabled community and that the disabled don't need parking spaces since they don't have cars. David Baker, project architect described similar variances that were granted. Annie Bourdon of the Car Share group that will serve the project explained how the process works and what a "pod" is. Ed Bedard of the Housing Coalition said he supports the variance and that the housing the project will provide is needed. Kevin Roach from ARC said the proposed building will open many opportunities for the disabled and will help people. Ron Miguel of the Housing Coalition said that this housing project is needed and the he was happy the parties had come to an agreement. Laurence Kornfield in response to a Board question explained how conditions of approval imposed by the Board are enforced. Jonas Ionin explained how Planning enforces conditions.

There being no further business, President Chin adjourned the meeting at 8:00 p.m.

Arnold Y. K. Chin, President

Robert H. Feldman, Executive Secretary

Transcripts of these hearings can be obtained from Ms. Claudine Woeber, the Official Court Reporter, 883-7561.

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

REGULAR MEETING - WEDNESDAY, OCTOBER 30, 2002

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

(2) **COMMISSIONERS COMMENTS & QUESTIONS:**

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(3) **ADDENDUM ITEM(S):**

ITEM A: 129 Randall Street. Letter from Paul Curtis, agent for Friends of Randall Street, requesting that the Board take jurisdiction over Building Permit Application No(s). 9911579 & 9911578S. Permit Holder(s): John O'Reilly. Project: demolish a one-story single-family dwelling & construct a three-story, two-unit residential building.

Date Permit(s) Issued:	July 11, 2002
Last Day to Appeal:	July 26, 2002
Jurisdiction Request(s) Received:	August 20, 2002

(4) **APPEAL NO. 96-175**

REBECCA A. VISPERAS, Appellant(s)
vs.
DEPT. BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT DISAPPROVAL

[550-552 Athens Street.
[Denial on December 9, 1996, of permit to Alter [a Building (legalize existing use a two family [dwelling on two floors of occupancy).
[APPLICATION NO. 9518320.
FOR HEARING TODAY.

(5) **APPEAL NO. 98-046**

GERARDO PINTO & MARIANNE RUDDY, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT DISAPPROVAL

[1506-08 Alabama Street.
[Denial on March 6, 1998, of permit to Alter a [Building (legalize flat on ground floor; add [windows in kitchen and living room; add fan [and light in bathroom; provide fire wall and [door between garage and flat).
[APPLICATION NO. 9802518S.
[PUBLIC TESTIMONY HEARD NOV. 18, 1998, [FEB. 17, 1999, & MAY 29, 2002.
[FOR FURTHER CONSIDERATION TODAY.

(6) **APPEAL NO. 98-117**

EDWARD R. NUNES, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[1780 Oakdale Avenue.
[Health Permit Referral determination by the [Zoning Administrator dated June 10, 1998 that [the proposed Non-conforming Commercial [Food Warehouse/Wholesale Sales use in a RH-[1 zone, will terminate at the current five-year [lease expiration on April 30, 2003.
[FOR HEARING TODAY

(7) **APPEAL NO. V00-048**

ALLAN & LORRAINE THOMPSON, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[50 Magnolia/1755 Chestnut Streets.
[Denial on March 22, 2000, of Rear Yard [Variance to relocate one dwelling unit from the [1755 Chestnut Street building to the existing [rear carriage house at 50 Magnolia Street by [renovating and adding a floor and roof deck to [the existing building, setting back the new floor [15 feet from Magnolia Street; the proposal also [includes two 2'x7' extensions into the lightwells [of the existing 1755 Chestnut Street building; [the total number of dwelling units will remain [six units.
[VARIANCE CASE NO. 99.164V.
[FOR HEARING TODAY.

(8) **APPEAL NO. 00-096**

TREVOR FOOKS, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[1623-1625 Noe Street.
[Zoning Administrator's determination dated [June 13, 2000 that under the RH-2 zoning of [the property, the illegal third basement unit of [the two-unit building must be removed, and [with certain alterations the space may remain [habitable space as part of one of the two lawful [units.
[FOR HEARING TODAY.

ITEMS (9A) & (9B) SHALL BE HEARD TOGETHER:

(9A) **APPEAL NO. 01-021**

POTRERO BOOSTERS NEIGHBORHOOD ASSN. & DOGPATCH NEIGHBORHOOD ASSN., Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[691 Tennessee Street.
[Protesting issuance on January 10, 2001, to [Robert Miller, Site Permit to Erect a Building [(25 live/work units).
[APPLICATION NO. 9917435S.
[FOR HEARING TODAY.

(9B) **APPEAL NO. 01-022**

POTRERO BOOSTERS NEIGHBORHOOD ASSN. & DOGPATCH NEIGHBORHOOD ASSN., Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[691 Tennessee Street.
[Protesting issuance on January 10, 2001, to [Robert Miller, Permit to Demolish a Building [(metal shed).
[APPLICATION NO. 9917436.
[FOR HEARING TODAY.

(10) **APPEAL NO. 01-040**

RICK HOLMAN, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[445 Bryant Street.
[Protesting issuance on January 29, 2001, to [Armax, Inc., Site Permit to Erect a Building [(eight live/work units).
[APPLICATION NO. 2000/09/15/7935S.
[PUBLIC HEARING HELD MAR. 13, 2002, & [FURTHER TESTIMONY HEARD JUNE 12, [2002.
[FOR FURTHER CONSIDERATION TODAY.

(11) **APPEAL NO. 01-115**

THERESA ISSERMAN, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent

[700 Vermont Street.
[Protesting issuance on June 20, 2001, to
[Raymond & Hazel Guaraglia, Permit to Alter [a
Building (demolish existing non-complian
[residential units per Notice of Violation No
[200114983; remove all utilities to ground level
[convert to original commercial space with no
[structural work to be done).
[APPLICATION NO. 2001/06/20/1935.
[PUBLIC TESTIMONY HEARD JUNE 19, 2002.
[FOR FURTHER CONSIDERATION TODAY.

(12) **APPEAL NO. 01-213**

MICAELA LEZCANO, Appellant(s)
vs.
DEPT. OF PUBLIC WORKS, Respondent

[3560-3566 - 20th Street.
[Denial on October 25, 2001, of Permit to
[Remove Two Trees (without replacement).
[ORDER NO(S). 173,215 & 173,232
[ORIGINAL DECISION ON FEB. 6, 2002 TO
[UPHOLD DENIAL.
[REHEARING GRANTED JUNE 19, 2002.
[FOR REHEARING TODAY.

(13) **APPEAL NO. 02-111**

JUDITH HARDING, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

Subject Prop. Owner(s): RICHARD & NORMA DENNES

[281 & 285 Edgewood Avenue.
[Appealing a determination dated June 10, 2002
[addressed to Judith Harding, that Variance
[Case No. 90.856V has been "utilized" or acted
[upon, and that the current configuration of the
[subject lots is legal; that no new variance is
[necessary to build upon the subject lots as long
[as the proposal generally conforms to the
[dimensions and scope of the project as
[originally described in the variance; and that the
[permit applications filed with the Planning Dept
[have been found to conform to the variance and
[are subject to the required 30-day
[neighborhood notification.
[FOR HEARING TODAY.

(14) **APPEAL NO. 02-131**

OCEAN BEACH HOMEOWNER'S ASSOCIATION, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[770 La Playa Street.
[Protesting the issuance on July 10, 2002, to the [Progress Foundation, Permit to Erect a Building [(four-story, fourteen-unit building with 3,972sf of [ground floor area).
[APPLICATION NO. 2000/12/20/8432.
[FOR HEARING TODAY.

(15) **APPEAL NO. 02-152**

SPP REAL ESTATE LLP, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[Lakeshore Plaza Shopping Center on Sloat [Boulevard.
[Appealing a determination dated July 26, 2002, [addressed to Walter Wong at Jaidin [Consulting, that a hamburger restaurant is not [a permitted use at the subject property [because hamburger restaurants were [specifically omitted as an allowable use by the [Board of Supervisors when it approved [conditions for the Conditional Use (CU) [authorization at Lakeshore Plaza.
[FOR HEARING TODAY.

(16) **APPEAL NO. 02-191**

CLEMENTINA TOWERS TENANTS ASSOCIATION, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
REDEVELOPMENT AGENCY APPROVAL

[328 Tehema Street.
[Protesting the issuance on Sept. 6, 2002, to [Todco Development, Permit to Erect a Building [(nine-story, 85-unit residential commercial [building with parking).
[APPLICATION NO. 2001/12/03/4364.
[FOR HEARING TODAY.

ADJOURNMENT.

Note: Each item on this agenda may include the following documents:

1) Appellant's Preliminary Statement of Appeal and Brief; 2) Respondent's or Permit holder's Response Brief; 3) Appellant's Reply; 4) Department decision, order, permit, determination, resolution, or Notice of Violation; and 5) Correspondence of public and parties.

These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter. Please call 575-6880 if you have any questions concerning this agenda.

Date posted: October 24, 2002

MEMBERS OF THE BOARD OF APPEALS

ARNOLD Y.K. CHIN	PRESIDENT
KATHLEEN HARRINGTON	VICE PRESIDENT
SABRINA N. SAUNDERS	COMMISSIONER
DOUGLAS SHOEMAKER	COMMISSIONER
HISASHI B. SUGAYA	COMMISSIONER

CLAUDINE WOEBER - OFFICIAL COURT REPORTER 883-7561; THE PRESIDING OFFICER WILL CALL A RECESS AT 6:30 P.M. & WHENEVER NECESSARY FOR THE CONVENIENCE OF THE COURT REPORTER.

PROCEDURE AT HEARINGS

The order of presentation of an appeal shall be as follows: In the case of appeal of denials revocations and suspensions the representatives of the department, board, commission or perso from whose order the appeal is taken shall speak first and shall be allowed seven minutes for the presentation and three minutes for rebuttal.

The appellant whose permit has been denied, revoked or suspended shall be allowed seven minute for oral argument and three minutes for rebuttal.

In the case of protest appeals, the protestor shall speak first and shall be allowed seven minutes t present oral argument and three minutes for rebuttal, and the permit holder shall be allowed seve minutes to present oral argument and three minutes for rebuttal. The Board may request departmental response at its own discretion.

Other persons desiring to speak before the Board on an appeal may speak once for up to thre minutes.

SPECIAL NOTES

Mailed notices of public hearings on appeals are sent to all parties at least five days prior to the da of hearing. In the event that a matter is continued to a specific date by the presiding officer ar announced to the parties in the hearing room, no additional mailed notice will be sent. Please ca the Board office at 575-6880 for scheduling or other information during regular business hours, visit our website at www.sfgov.org/bdappeal

Briefs are limited to twelve pages, excluding exhibits, which should be tabbed for easy reference.

The complete Rules of the Board are available for review at the Board office.

Material submitted by the public for Board review prior to a scheduled hearing before the Boar should be addressed to the Board President, and be received at the Board office, 1660 Missic Street, Room 3036, no later than 4:00 p.m. the Thursday (six days) prior to the scheduled publ hearing. Persons unable to attend the scheduled public hearing may submit written comments

regarding a calendared item to the Board office. Comments received before noon on the day of the hearing will be made a part of the official record and will be brought to the attention of the Board at the public hearing. For complete distribution to all Commissioners of the Board, necessary staff and case files, submit an original and ten copies.

Pursuant to Government Code Section 65009, if you challenge, in court, the approval of a variance or development permit, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Board of Appeals at, or prior to, the public hearing.

Calendared items are sometimes withdrawn or rescheduled to a later date prior to hearing, or are taken out of order to accommodate special needs. The Board urges all parties to be present in the hearing room from 5:00 p.m. so that everyone has an opportunity to participate in the relevant public hearing when it is called.

PROHIBITION OF SOUND-PRODUCING ELECTRONIC DEVICES

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

ACCESSIBILITY INFORMATION

American sign language interpreters and/or sound enhancement system will be available upon request by contacting Catherine Johnson at 575-6882 at least 72 hours prior to the hearing. Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call the accessibility hotline at 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals. The closest accessible BART station is the Civic Center station located at the intersection of Market, Hyde and Grove Streets. Accessible curbside parking has been designated at points along McAllister Street. Accessible MUNI lines serving City Hall are the 42 Downtown Loop, 9 San Bruno and 71 Haight/Noriega and the F line. Accessible MUNI Metro lines are the J, K, L, M, and N. For more information regarding MUNI accessible services, call (415) 923-6142.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force: Donna Hall, Sunshine Ordinance Task Force, City Hall, Room 409, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102-4683, Phone (415) 554-7724, fax (415) 554-7854, and e-mail

Donna_Hall@ci.sf.ca.us. Copies of the Sunshine Ordinance can be obtained from the Clerk of the Sunshine Task Force, the San Francisco Public Library, and on the City's website at www.ci.sf.ca.us/bdsupvrs/sunshine.

LOBBYING ACTIVITY

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Campaign and Governmental Conduct Code § 2.100] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415) 581-2300; fax (415) 581-2317; web site www.sfgov.org/ethics.

TAPES & TRANSCRIPTS OF MEETINGS & HEARINGS

Transcripts of hearings may be obtained from the Official Court Reporter, Claudine Woeber, at 883-7561.

Audiotapes of meetings may be obtained from the Board office. Please telephone 575-6880 for information.

Video tapes of selected meetings may be obtained from Citywatch, Channel 26. Please telephone 554-4188 for more information.

Note: Each item on this agenda may include the following documents:

1. Appellant's Preliminary Statement of Appeal and Brief.
2. Respondent's or Permit holder's Response Brief.
3. Appellant's Reply.
4. Department decision, order, permit, determination, resolution, or Notice of Violation.
5. Correspondence of public and parties.

These items are available for review at the Board's office, 1660 Mission St., Rm. 3036, front counter.

BOARD OF APPEALS
CITY & COUNTY OF SAN FRANCISCO
Robert H. Feldman, Executive Secretary
1660 Mission Street, Room 3036
San Francisco, California 94103
(415) 575-6880

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES - WEDNESDAY, OCTOBER 30, 2002

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

Present: President Arnold Y. K. Chin, Vice President Katherine Harrington, Commissioner Sabrina Saunders, Commissioner Douglas Shoemaker, and Commissioner Hisashi Sugaya.

Judith Boyajian, Deputy City Attorney for the City Attorney (DCA); Larry Badiner, Zoning Administrator, Planning Department; Laurence Kornfield, Chief Building Inspector, DBI; and Robert Feldman, Executive Secretary for the Board of Appeals; Official Court Reporter, Claudine Woeber.

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

SPEAKERS: None.

(2) **COMMISSIONERS COMMENTS & QUESTIONS:** The Board requested the staff arrange for presentations to the Board on affordable housing policies and implementation procedures for both for-profit and non-profit housing and a separate presentation by the Planning Department on parking requirements and implementation procedures, including the car-sharing programs in the City.

SPEAKERS: None.

(3) **ADDENDUM ITEM(S):**

ITEM A: 129 Randall Street. Letter from Paul Curtis, agent for Friends of Randall Street, requesting that the Board take jurisdiction over Building Permit Application No(s). 9911579 & 9911578S. Permit Holder(s): John O'Reilly. Project: demolish a one-story single-family dwelling & construct a three-story, two-unit residential building.

Date Permit(s) Issued:	July 11, 2002
Last Day to Appeal:	July 26, 2002
Jurisdiction Request(s) Received:	August 20, 2002

ACTION: Upon motion by Commissioner Shoemaker, the Board voted 4-0-1(Commissioner Saunders absent) to deny the request for jurisdiction.

SPEAKERS: Andrea Werlin for the requestors asked the Board to allow a late filing of a protest appeal because she and the other neighbors were confused by the permit issuance and notification procedures for demolition and site permits. She said she has undergone serious medical treatments for the past two years. Brett Gladstone, attorney for the permit holder, asked the Board to deny the request on the grounds the neighbors are sophisticated in these matters after going through nine hearings on this project and there is no good reason they failed to file on time. Laurence Kornfield, CBI for DBI explained the demolition and site permit numbering system for applications and permits.

(4) **APPEAL NO. 96-175**

REBECCA A. VISPERAS, Appellant(s)	[550-552 Athens Street.
vs.	[Denial on December 9, 1996, of permit to Alter
DEPT. BUILDING INSPECTION, Respondent	[a Building (legalize existing use a two family
PLANNING DEPARTMENT DISAPPROVAL	[dwelling on two floors of occupancy).
	[APPLICATION NO. 9518320.
	FOR HEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted 5-0 to overrule the denial with a finding that the 2nd unit at the subject property existed in 1908, with the Department of Building Inspection to correct the 3R report, and on condition that the 2nd unit (legal non-conforming use) meet all Building Code requirements.

SPEAKERS: Gurson Dang for the Appellant and himself explained why he feels that legalization of the second unit is justified based on the history of the building and the engineer's and water department reports and records.

Laurence Badiner, ZA, explained that the only basis for allowing the unit to remain is to find that the City records show that the unit was created before zoning regulations were enacted.

(5) **APPEAL NO. 98-046**

GERARDO PINTO & MARIANNE RUDDY, Appellant(s)	[1506-08 Alabama Street.
vs.	[Denial on March 6, 1998, of permit to Alter a
DEPT. OF BUILDING INSPECTION, Respondent	[Building (legalize flat on ground floor; add
PLANNING DEPARTMENT DISAPPROVAL	[windows in kitchen and living room; add fan
	[and light in bathroom; provide fire wall and
	[door between garage and flat).
	[APPLICATION NO. 9802518S.
	[PUBLIC TESTIMONY HEARD NOV. 18, 1998,
	[FEB. 17, 1999, & MAY 29, 2002.
	[FOR FURTHER CONSIDERATION TODAY.

ACTION: Upon motion by President Chin, the Board voted 5-0 to continue the matter to the Indefinite Calendar. (Call of the Chair).

SPEAKERS: Lawrence Badiner, ZA, said that Planning Code regulations do not permit a third unit on this site. Laurence Kornfield, CBI, DBI described his site visit and said the life-safety problems

have been remedied, but that if approved for three units the class would change to apartment house triggering many improvements required to meet multi-family standards. Gerardo Pinto, Appellant said that coming to the hearing from his home in Martinez is a hardship for him and that the tenants are happy with the apartment.

(6) **APPEAL NO. 98-117**

EDWARD R. NUNES, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[1780 Oakdale Avenue.
[Health Permit Referral determination by the [Zoning Administrator dated June 10, 1998 that [the proposed Non-conforming Commercial [Food Warehouse/Wholesale Sales use in a RH-[1 zone, will terminate at the current five-year [lease expiration on April 30, 2003.
[FOR HEARING TODAY

ACTION: Upon motion by Vice President Harrington, the Board voted 5-0 to continue the matter to Jan. 29, 2003 with the approval of the parties.

SPEAKERS: None.

(7) **APPEAL NO. V00-048**

ALLAN & LORRAINE THOMPSON, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[50 Magnolia/1755 Chestnut Streets.
[Denial on March 22, 2000, of Rear Yard [Variance to relocate one dwelling unit from the [1755 Chestnut Street building to the existing [rear carriage house at 50 Magnolia Street by [renovating and adding a floor and roof deck to [the existing building, setting back the new floor [15 feet from Magnolia Street; the proposal also [includes two 2'x7' extensions into the lightwells [of the existing 1755 Chestnut Street building; [the total number of dwelling units will remain [six units.
[VARIANCE CASE NO. 99.164V.
[FOR HEARING TODAY.

ACTION: Upon motion by Vice President Harrington, the Board voted 5-0 to continue the matter to Nov. 20, 2002 at the request of the parties.

SPEAKERS: None.

(8) **APPEAL NO. 00-096**

TREVOR FOOKS, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[1623-1625 Noe Street.
[Zoning Administrator's determination dated [June 13, 2000 that under the RH-2 zoning of [the property, the illegal third basement unit of [the two-unit building must be removed, and [with certain alterations the space may remain [habitable space as part of one of the two lawful [units.
[FOR HEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted 5-0 to continue the matter to the Indefinite Calendar.

SPEAKERS: None.

ITEMS (9A) & (9B) WERE HEARD TOGETHER:

(9A) **APPEAL NO. 01-021**

POTRERO BOOSTERS NEIGHBORHOOD ASSN. & DOGPATCH NEIGHBORHOOD ASSN., Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[691 Tennessee Street.
[Protesting issuance on January 10, 2001, to [Robert Miller, Site Permit to Erect a Building [(25 live/work units).
[APPLICATION NO. 9917435S.
[FOR HEARING TODAY.

(9B) **APPEAL NO. 01-022**

POTRERO BOOSTERS NEIGHBORHOOD ASSN. & DOGPATCH NEIGHBORHOOD ASSN., Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[691 Tennessee Street.
[Protesting issuance on January 10, 2001, to [Robert Miller, Permit to Demolish a Building [(metal shed).
[APPLICATION NO. 9917436.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Shoemaker, the Board voted 4-1(Commissioner Sugaya dissented) to reschedule the matter to Nov. 20, 2002.

SPEAKERS: None.

(10) **APPEAL NO. 01-040**

RICK HOLMAN, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[445 Bryant Street.
[Protesting issuance on January 29, 2001, to [Armax, Inc., Site Permit to Erect a Building [(eight live/work units).
[APPLICATION NO. 2000/09/15/7935S.
[PUBLIC HEARING HELD MAR. 13, 2002, & [FURTHER TESTIMONY HEARD JUNE 12, [2002.
[FOR FURTHER CONSIDERATION TODAY.

ACTION: Upon motion by Vice President Harrington, the Board voted 5-0 to continue the matter to the Indefinite Calendar at the request of the parties.

SPEAKERS: None.

(11) **APPEAL NO. 01-115**

THERESA ISSERMAN, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent

[700 Vermont Street.
[Protesting issuance on June 20, 2001, to [Raymond & Hazel Guaraglia, Permit to Alter [a Building (demolish existing non-compliant [residential units per Notice of Violation No. [200114983; remove all utilities to ground level; [convert to original commercial space with no [structural work to be done).
[APPLICATION NO. 2001/06/20/1935.
[PUBLIC TESTIMONY HEARD JUNE 19, 2002.
[FOR FURTHER CONSIDERATION TODAY.

ACTION: Upon motion by Commissioner Sugaya, the Board voted 5-0 to continue the matter to Nov. 20, 2002 at the request of the parties.

SPEAKERS: None.

12) **APPEAL NO. 01-213**

MICAELA LEZCANO, Appellant(s)
vs.
DEPT. OF PUBLIC WORKS, Respondent

[3560-3566 - 20th Street.
[Denial on October 25, 2001, of Permit to [Remove Two Trees (without replacement).
[ORDER NO(S). 173,215 & 173,232
[ORIGINAL DECISION ON FEB. 6, 2002 TO [UPHOLD DENIAL.
[REHEARING GRANTED JUNE 19, 2002.
[FOR REHEARING TODAY.

ACTION: Upon motion by Vice President Harrington, the Board voted 5-0 to continue the matter to Nov. 13, 2002 at the request of the parties.

SPEAKERS: None.

(13) **APPEAL NO. 02-111**

JUDITH HARDING, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

Subject Prop. Owner(s): RICHARD & NORMA DENNES

[281 & 285 Edgewood Avenue.
[Appealing a determination dated June 10, 2002, [addressed to Judith Harding, that Variance [Case No. 90.856V has been "utilized" or acted [upon, and that the current configuration of the [subject lots is legal; that no new variance is [necessary to build upon the subject lots as long [as the proposal generally conforms to the [dimensions and scope of the project as [originally described in the variance; and that the [permit applications filed with the Planning Dept. [have been found to conform to the variance and [are subject to the required 30-day [neighborhood notification.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Shoemaker, the Board voted 5-0 to uphold the subject determination.

SPEAKERS: None.

(14) **APPEAL NO. 02-131**

OCEAN BEACH HOMEOWNER'S ASSOCIATION, Appellant(s)
vs.

DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[770 La Playa Street.
[Protesting the issuance on July 10, 2002, to the [Progress Foundation, Permit to Erect a Building [(four-story, fourteen-unit building with 3,972sf of [ground floor area).
[APPLICATION NO. 2000/12/20/8432.
[FOR HEARING TODAY.

ACTION: Upon motion by Vice President Harrington, the Board voted 5-0 to continue the matter to Nov. 6, 2002 at the request of the parties.

SPEAKERS: None.

(15) **APPEAL NO. 02-152**

SPP REAL ESTATE LLP, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[Lakeshore Plaza Shopping Center on Sloat [Boulevard.
[Appealing a determination dated July 26, 2002, [addressed to Walter Wong at Jaidin [Consulting, that a hamburger restaurant is not [a permitted use at the subject property [because hamburger restaurants were [specifically omitted as an allowable use by the [Board of Supervisors when it approved [conditions for the Conditional Use (CU) [authorization at Lakeshore Plaza.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Saunders, the Board voted 4-1 (Commissioner Sugaya dissented) to overrule the subject determination.

SPEAKERS: Lawrence Badiner, ZA, explained the Planning Code definition of fast food restaurant and the condition imposed by the Board of Supervisors when they approved the Conditional Use authorization for the shopping center. He said the issue is when is a hamburger a hamburger or a sandwich. His determination is based on his understanding of what the Supervisors' intention was in prohibiting fast food hamburger restaurants. Patrice Fambrini, Jaidin Consulting, spoke for McDonald's and asked the Board to overrule the ZA and allow the restaurant in the shopping center. She said it meets the Planning Code definition of a large fast-food restaurant and that "hamburger restaurant" is not defined in the Code. The store will sell much more than hamburgers, besides. The Code does not prohibit franchise businesses, either.

No public comment for either side.

(16) **APPEAL NO. 02-191**

CLEMENTINA TOWERS TENANTS ASSOCIATION, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
REDEVELOPMENT AGENCY APPROVAL

[328 Tehema Street.
[Protesting the issuance on Sept. 6, 2002, to [Todco Development, Permit to Erect a Building [(nine-story, 85-unit residential commercial [building with parking).
[APPLICATION NO. 2001/12/03/4364.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Saunders, the Board voted 5-0 to recuse Commissioner Shoemaker. Afterwards, upon motion by President Chin, the Board voted 4-0-1 (Commissioner Shoemaker recused) to reschedule the matter to Nov. 20, 2002 with a start time of no earlier than 4pm.

SPEAKERS: Abdul Kadir, Appellant requested a rescheduling of the hearing so he will have sufficient time to organize his group for the hearing. John Elbering of Todco, the permit holder,

objected to a rescheduling because delay will cost money, since the contractor has guaranteed a price until December 31, after which the price goes up.

There being no further business, President Chin adjourned the meeting at 7:37 p.m.

Arnold Y. K. Chin, President

Robert H. Feldman, Executive Secretary

Transcripts of these hearings can be obtained from Ms. Claudine Woeber, theOfficial Court Reporter, 883-7561.

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

REGULAR MEETING - WEDNESDAY, NOVEMBER 6, 2002

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

(2) **COMMISSIONERS COMMENTS & QUESTIONS:**

(3) **ADDENDUM ITEMS:**

ITEM A: 2518 Union Street. Letter from David Cincotta, attorney for Marc & Lisa Cabi, Appellants, requesting rehearing of Appeal No(s). 02-050, Cabi vs. DBI, PCD, decided June 5, 2002. Upon motion by Vice President McInerney, the Board voted 4-1 (President Chin dissented) to uphold the procedural denial (modification) by the Planning Commission, with conditions as stated into the record by Vice President McInerney, and with findings to be adopted by the Board on June 12, 2002. Findings were adopted June 12, 2002.

ITEM B: 5 Florida Street. Letter from Ha Ly, Requestor, asking that the Board take jurisdiction over the approval by the Police Dept. of an additional stop in front of the subject property for mobile catering truck no. 21. Mobile Catering Truck Permit Holder(s): Rosaana Li.

Date of Request for Additional Stop:	April 29, 2002
Date of Approval for Additional Stop:	Unknown; according to Police Permit Bureau, approval was given shortly after request filed.
Date of Jurisdiction Request:	July 15, 2002

ITEM C: 3025, 3027 & 3029 Buchanan Street. Letter from Stephen Sherman, attorney for Roland Childs, asking that the Board take jurisdiction over Building Permit Application No(s). 2001/18/24/5854. Permit Holder(s): K.L. Colwell. Project: comply with 3R 3206 (partial only).

Date Permit(s) Issued:	August 7, 2002
Last Day to Appeal:	August 22, 2002
Jurisdiction Request(s) Received:	October 15, 2002

(4) **CONSENT ITEMS (DBI PENALTY):** With the consent of the Department of Building Inspection, the Board will proceed to a vote without testimony to reduce the penalty (investigation fee) to two times the regular fee as provided for in the Building Code. Without consent the Board will take testimony and then decide the appeal.

(4A) **APPEAL NO. 02-091**

ROBERT HINDI, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[120 Elsie Street.
[Appeal for refund of penalty imposed on [May 29, 2002, for work done without a permit.
[APPLICATION NO. 2002/03/19/1736.
[FOR HEARING TODAY.

(5) **CONSENT ITEMS (POLICE REVOCATION):** With the consent of the Police Department, the Board will proceed to a vote without testimony to overrule the revocation of the subject permit(s) with the condition that the appellants pay all appropriate permit fees. Without consent the Board will take testimony and then decide the appeal.

(5A) **APPEAL NO. 02-184**

MINEY LLC dba "CURVE BAR & RESTAURANT", Appellant(s)
vs.
POLICE DEPARTMENT, Respondent

[747 – 3rd Street.
[Appealing the revocation on August 28, 2002, [of Place of Entertainment/Dance Hall Keeper [Permit due to non-payment of fees.
[ACCOUNT NO. 1155.
[FOR HEARING TODAY.

(6) **APPEAL NO. 01-221**

RANDOLPH & JOANNA GEORGE, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[355 Lombard Street.
[Protesting issuance on November 8, 2001, to [Donald Jans, Site Permit to Alter a Building [(install wall, as per plans, on west side of front [yard).
[APPLICATION NO. 2000/07/19/5599S.
[PUBLIC HEARING HELD & CLOSED JUNE 26, [2002.
[FOR FURTHER CONSIDERATION TODAY.

(7) **APPEAL NO. 01-243**

ANDREW & STACEY
FROST, ROBERT & MARIAN
HEATH, KAREN LARSEN, MICHAEL
SHANE, RONNA STONE, TIMOTHY
SMITH, VERNE & ROBERT DOXEY,
DAVID IRWIN, SUSAN GAMBLE,
DEBORAH & H. BOYD SEYMOUR,
and NANCY & ROGER BOAS, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[3352 Washington Street.
[Appealing a determination dated December [17, 2001, addressed to Alice Barkley, attorney [for owners John & Shirley Oswald, that the [proposed roof structure on the subject [property is a dormer and that it complies with [Planning Code § 261 in terms of area [limitation requirements for permitted [exceptions, and that the proposed roof height [is code complying.
[APPLICATION NO. 2000/06/16/2818.
[FOR HEARING TODAY.

(8) **APPEAL NO. 02-017**

TEODORA MONTOYA, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. DISAPPROVAL

[951 Naples Street.
[Appealing denial on February 4, 2002, of [Permit to Alter a Building (legalize existing in-[law apartment in basement).
[APPLICATION NO. 2001/10/10/0331.
[PUBLIC HEARING HELD APRIL 3, 2002.
[FOR FURTHER CONSIDERATION TODAY.

(9) **APPEAL NO. 02-033**

GERARDO HERNANDEZ, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[3165 Mission Street.
[Appealing a Notice of Violation dated February [25, 2002, addressed to Leticia Luna, that the [subject property is being used as a tow service [lot in violation of § 712.59 of the Planning Code, [which also prohibits the establishment of an [auto repair use in an NC-3 zoning district.
[FOR HEARING TODAY

(10) **APPEAL NO. 02-036**

GABRIEL SANCHEZ & LORENZO
AVIGNONI dba "MONARCH SCOOTERS",
Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[1684 – 15th Street.
[Appealing a determination dated Feb. 26, [2002, addressed to Gabriel Sanchez & [Lorenzo Avignoni, that Planning Code [§ 726.61 does not allow the use of the subject [property building for sale of motor scooters, [automotive sales or rental as a principal use [within the Valencia Neighborhood Commercial [District (NCD).
[FOR HEARING TODAY.

(11) **APPEAL NO. V02-109**

SAL BALISTRERI, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[1 Grand View Avenue.
[Protesting the granting on June 10, 2002, to
[Warner Schmalz, of Front & Rear Setback
[Variance(s) (construction of a new single-family
[dwelling with 2 stories at the front located on
[Grand View Avenue and a total of 3 stories at
[the rear on Stanton Street).
[VARIANCE CASE NO. 2001.0799V.
[FOR HEARING TODAY

(12) **APPEAL NO. 02-131**

OCEAN BEACH
HOMEOWNER'S ASSOCIATION, Appellant(s)
vs.

DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[770 La Playa Street.
[Protesting the issuance on July 10, 2002, to the
[Progress Foundation, Permit to Erect a Building
[(four-story, fourteen-unit building with 3,972sf of
[ground floor area).
[APPLICATION NO. 2000/12/20/8432.
[FOR HEARING TODAY.

(13) **APPEAL NO. 02-150**

JIMMY CHU, Appellant(s)
vs.

ZONING ADMINISTRATOR, Respondent

[1551 Taraval Street.
[Appealing a Permit Suspension Request dated
[July 23, 2002, addressed to Dept. of Building
[Inspection Director Frank Chiu, requesting that
[Building Permit Application No(s). 9903316S be
[suspended for the reason that proper
[neighborhood notification under Planning Code
[§ 312 was omitted in error.
[FOR HEARING TODAY.

(14) **APPEAL NO. 02-195**

MICHAEL J. GUGLIELMINO, Appellant(s)
vs.

DEPT. OF BUILDING INSPECTION,
Respondent

[2448 Larking Street.
[Protesting the issuance on September 19, [2002, to Primecore, Permit to Alter a Building [(renewal of Building Permit Application No(s). [99257797S, 2000/04/24/7982S1, & [2000/04/24/7982S2).
[APPLICATION NO. 2002/09/19/6954.
[FOR HEARING TODAY.

ADJOURNMENT.

Note: Each item on this agenda may include the following documents:

1) Appellant's Preliminary Statement of Appeal and Brief; 2) Respondent's or Permit holder's Response Brief; 3) Appellant's Reply; 4) Department decision, order, permit, determination, resolution, or Notice of Violation; and 5) Correspondence of public and parties.

These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter. Please call 575-6880 if you have any questions concerning this agenda.

Date posted: October 31, 2002

MEMBERS OF THE BOARD OF APPEALS

ARNOLD Y.K. CHIN	PRESIDENT
KATHLEEN HARRINGTON	VICE PRESIDENT
SABRINA N. SAUNDERS	COMMISSIONER
DOUGLAS SHOEMAKER	COMMISSIONER
HISASHI B. SUGAYA	COMMISSIONER

CLAUDINE WOEBER - OFFICIAL COURT REPORTER 883-7561; THE PRESIDING OFFICER WILL CALL A RECESS AT 6:30 P.M. & WHENEVER NECESSARY FOR THE CONVENIENCE OF THE COURT REPORTER.

PROCEDURE AT HEARINGS

The order of presentation of an appeal shall be as follows: In the case of appeal of denials, revocations and suspensions the representatives of the department, board, commission or person from whose order the appeal is taken shall speak first and shall be allowed seven minutes for their presentation and three minutes for rebuttal.

The appellant whose permit has been denied, revoked or suspended shall be allowed seven minutes for oral argument and three minutes for rebuttal.

In the case of protest appeals, the protestor shall speak first and shall be allowed seven minutes to present oral argument and three minutes for rebuttal, and the permit holder shall be allowed seven minutes to present oral argument and three minutes for rebuttal. The Board may request a departmental response at its own discretion.

Other persons desiring to speak before the Board on an appeal may speak once for up to three minutes.

SPECIAL NOTES

Mailed notices of public hearings on appeals are sent to all parties at least five days prior to the date of hearing. In the event that a matter is continued to a specific date by the presiding officer and announced to the parties in the hearing room, no additional mailed notice will be sent. Please call the Board office at 575-6880 for scheduling or other information during regular business hours, or visit our website at www.sfgov.org/bdappeal

Briefs are limited to twelve pages, excluding exhibits, which should be tabbed for easy reference.

The complete Rules of the Board are available for review at the Board office.

Material submitted by the public for Board review prior to a scheduled hearing before the Board, should be addressed to the Board President, and be received at the Board office, 1660 Mission Street, Room 3036, no later than 4:00 p.m. the Thursday (six days) prior to the scheduled public hearing. Persons unable to attend the scheduled public hearing may submit written comments

regarding a calendared item to the Board office. Comments received before noon on the day of the hearing will be made a part of the official record and will be brought to the attention of the Board at the public hearing. For complete distribution to all Commissioners of the Board, necessary staff and case files, submit an original and ten copies.

Pursuant to Government Code Section 65009, if you challenge, in court, the approval of a variance or development permit, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Board of Appeals at, or prior to, the public hearing.

Calendared items are sometimes withdrawn or rescheduled to a later date prior to hearing, or are taken out of order to accommodate special needs. The Board urges all parties to be present in the hearing room from 5:00 p.m. so that everyone has an opportunity to participate in the relevant public hearing when it is called.

PROHIBITION OF SOUND-PRODUCING ELECTRONIC DEVICES

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

ACCESSIBILITY INFORMATION

American sign language interpreters and/or sound enhancement system will be available upon request by contacting Catherine Johnson at 575-6882 at least 72 hours prior to the hearing. Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call the accessibility hotline at 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals. The closest accessible BART station is the Civic Center station located at the intersection of Market, Hyde and Grove Streets. Accessible curbside parking has been designated at points along McAllister Street. Accessible MUNI lines serving City Hall are the 42 Downtown Loop, 9 San Bruno and 71 Haight/Noriega and the F line. Accessible MUNI Metro lines are the J, K, L, M, and N. For more information regarding MUNI accessible services, call (415) 923-6142.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force: Donna Hall, Sunshine Ordinance Task Force, City Hall, Room 409, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102-4683, Phone (415) 554-7724, fax (415) 554-7854, and e-mail

Donna_Hall@ci.sf.ca.us. Copies of the Sunshine Ordinance can be obtained from the Clerk of the Sunshine Task Force, the San Francisco Public Library, and on the City's website at www.ci.sf.ca.us/bdsupvrs/sunshine.

LOBBYING ACTIVITY

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Campaign and Governmental Conduct Code § 2.100] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415) 581-2300; fax (415) 581-2317; web site www.sfgov.org/ethics.

TAPES & TRANSCRIPTS OF MEETINGS & HEARINGS

Transcripts of hearings may be obtained from the Official Court Reporter, Claudine Woeber, at 883-7561.

Audiotapes of meetings may be obtained from the Board office. Please telephone 575-6880 for information.

Video tapes of selected meetings may be obtained from Citywatch, Channel 26. Please telephone 554-4188 for more information.

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3. Appellant's Reply.
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BOARD OF APPEALS
CITY & COUNTY OF SAN FRANCISCO
Robert H. Feldman, Executive Secretary
1660 Mission Street, Room 3036
San Francisco, California 94103
(415) 575-6880

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

REGULAR MEETING - WEDNESDAY, NOVEMBER 13, 2002

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

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(2) **COMMISSIONERS COMMENTS & QUESTIONS:**

(3) **ADDENDUM ITEMS:**

ITEM A: 706 Wisconsin Street. Letter from Christopher Parber & Maria Esther Gonzalez Parber, requesting that the Board take jurisdiction over Building Permit Application No(s). 2002/08/06/3220. Permit Holder(s): Tom McDonald. Project: remodel kitchen, bathrooms, repair rear deck.

Date Permit(s) Issued:	August 6, 2002
Last Day to Appeal:	August 21, 2002
Jurisdiction Request(s) Received:	August 23, 2002

ITEM B: 1479 – 3rd Avenue. Letter from Larry Badiner, Zoning Administrator, requesting rehearing of Appeal 01-196, Wydler vs. ZA, decided Jan. 30, 2002. Upon motion by Vice President McInerney, the Board voted 4-0-1 (Commissioner Saunders absent) to overrule the subject determination and to adopt the findings submitted by the appellant's attorney. Appellant: Aton Wydler. Determination: that use of the subject property as a 4-unit residential building is not permitted under the Planning Code, and is not considered to be a legal non-conforming use under Planning Code Sections 180 through 185.

(4) **CONSENT ITEMS:** With the consent of the Department of Building Inspection, the Board will proceed to a vote without testimony to reduce the penalty (investigation fee) to two times the regular fee as provided for in the Building Code. Without consent the Board will take testimony and then decide the appeal.

(4A) **APPEAL NO. 02-146**

ANNIE XU, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[122 Tara Street.
[Appeal for refund of penalty imposed on
[August 1, 2002, for work done without a permit.
[APPLICATION NO. 2002/07/09/0904.
[FOR HEARING TODAY.

(4B) **APPEAL NO. 02-147**

JEFFREY GUNZENHAUSER, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[1601 – 20th Avenue.
[Appeal for refund of penalty imposed on
[August 1, 2002, for work done without a permit.
[APPLICATION NO. 2002/06/20/9494.
[FOR HEARING TODAY.

(4C) **APPEAL NO. 02-194**

VICTOR UME-UKEJE
& ELIZABETH CONDON, Appellant(s)
vs.

DEPT. OF BUILDING INSPECTION,
Respondent

[2515-2519 Post Street.
[Appeal for refund of penalty imposed on Oct. 1,
[2002, for work done without a permit.
[APPLICATION NO. 2002/09/09/5962.
[FOR HEARING TODAY.

(5) **APPEAL NO. 01-213**

MICAELA LEZCANO, Appellant(s)
vs.
DEPT. OF PUBLIC WORKS, Respondent

[3560-3566 - 20th Street.
[Denial on October 25, 2001, of Permit to
[Remove Two Trees (without replacement).
[ORDER NO(S). 173,215 & 173,232
[ORIGINAL DECISION ON FEB. 6, 2002 TO
[UPHOLD DENIAL.
[REHEARING GRANTED JUNE 19, 2002.
[FOR REHEARING TODAY.

(6) **APPEAL NO. 02-042**

CALVIN LEE, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[344 Taraval Street.
[Appealing a Notice of Violation dated Feb. 26, [2002, addressed to Calvin Lee, that the 2nd [floor residential dwelling unit has been [converted to commercial use as additional [dental office space and storage without the [required conditional use (CU) authorization.
[PUBLIC TESTIMONY HEARD JUNE 12, 2002.
[FOR FURTHER CONSIDERATION TODAY.

(7) **APPEAL NO. 02-063**

ERIC YOUNG
dba "SF BATTLE ZONE", Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[1968 Powell Street (583 Lombard Street).
[Appealing a Notice of Violation dated March 26, [2002, addressed to Gan Woo Wong, that the [small grocery store at the subject property has [been converted into an internet café without [benefit of a permit, in violation of Planning Code [§ 722.48 which requires conditional use (CU) [authorization for "Other Entertainment Uses" in [the North Beach Neighborhood Commercial [Zoning District.
[FOR HEARING TODAY.

(8) **APPEAL NO. 02-070**

MARY BAGGENSTOSS, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent

[1257B Dolores Street.
[Protesting the issuance on April 5, 2002, to [Anne Walzer, Permit to Alter a Building (1/4" [sheetrock attached to shearwalls, shelf and [structure to box in sloped cement foundation [along north wall, plywood floor to create level [floor).
[APPLICATION NO. 2002/04/05/3239.
[PUBLIC HEARING HELD & CLOSED JUNE 5, [2002. FURTHER TESTIMONY TAKEN [JUNE 26, 2002.
[FOR FURTHER CONSIDERATION TODAY.

(9) **APPEAL NO. 02-082**

COLLINS O'NEILL, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[590 Lisbon Street.
[Protesting the issuance on May 9, 2002, to Matt [Householder, Site Permit to Alter a Building [(remove an existing rear extension, construct a [new two-story extension consisting of living [room, bedroom, bath and closet; includes new [deck and stairs to rear yard).
[APPLICATION NO. 2002/01/03/6243S.
[FOR HEARING TODAY.

(10) **APPEAL NO. 02-084**

PETER TETERIATNIKOV, Appellant(s)
vs.
POLICE DEPARTMENT, Respondent

[765 Market Street.
[Appealing the denial on May 3, 2002, of [Pushcart Peddler Permit.
[FOR HEARING TODAY.

ADJOURNMENT.

Note: Each item on this agenda may include the following documents:

1) Appellant's Preliminary Statement of Appeal and Brief; 2) Respondent's or Permit holder's Response Brief; 3) Appellant's Reply; 4) Department decision, order, permit, determination, resolution, or Notice of Violation; and 5) Correspondence of public and parties.

These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter. Please call 575-6880 if you have any questions concerning this agenda.

Date posted: November 7, 2002

MEMBERS OF THE BOARD OF APPEALS

ARNOLD Y.K. CHIN	PRESIDENT
KATHLEEN HARRINGTON	VICE PRESIDENT
SABRINA N. SAUNDERS	COMMISSIONER
DOUGLAS SHOEMAKER	COMMISSIONER
HISASHI B. SUGAYA	COMMISSIONER

CLAUDINE WOEBER - OFFICIAL COURT REPORTER 883-7561; THE PRESIDING OFFICER WILL CALL A RECESS AT 6:30 P.M. & WHENEVER NECESSARY FOR THE CONVENIENCE OF THE COURT REPORTER.

PROCEDURE AT HEARINGS

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The appellant whose permit has been denied, revoked or suspended shall be allowed seven minutes for oral argument and three minutes for rebuttal.

In the case of protest appeals, the protestor shall speak first and shall be allowed seven minutes to present oral argument and three minutes for rebuttal, and the permit holder shall be allowed seven minutes to present oral argument and three minutes for rebuttal. The Board may request a departmental response at its own discretion.

Other persons desiring to speak before the Board on an appeal may speak once for up to three minutes.

SPECIAL NOTES

Mailed notices of public hearings on appeals are sent to all parties at least five days prior to the date of hearing. In the event that a matter is continued to a specific date by the presiding officer and announced to the parties in the hearing room, no additional mailed notice will be sent. Please call the Board office at 575-6880 for scheduling or other information during regular business hours, or visit our website at www.sfgov.org/bdappeal

Briefs are limited to twelve pages, excluding exhibits, which should be tabbed for easy reference.

The complete Rules of the Board are available for review at the Board office.

Material submitted by the public for Board review prior to a scheduled hearing before the Board, should be addressed to the Board President, and be received at the Board office, 1660 Mission Street, Room 3036, no later than 4:00 p.m. the Thursday (six days) prior to the scheduled public hearing. Persons unable to attend the scheduled public hearing may submit written comments

regarding a calendared item to the Board office. Comments received before noon on the day of the hearing will be made a part of the official record and will be brought to the attention of the Board at the public hearing. For complete distribution to all Commissioners of the Board, necessary staff and case files, submit an original and ten copies.

Pursuant to Government Code Section 65009, if you challenge, in court, the approval of a variance or development permit, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Board of Appeals at, or prior to, the public hearing.

Calendared items are sometimes withdrawn or rescheduled to a later date prior to hearing, or are taken out of order to accommodate special needs. The Board urges all parties to be present in the hearing room from 5:00 p.m. so that everyone has an opportunity to participate in the relevant public hearing when it is called.

PROHIBITION OF SOUND-PRODUCING ELECTRONIC DEVICES

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

ACCESSIBILITY INFORMATION

American sign language interpreters and/or sound enhancement system will be available upon request by contacting Catherine Johnson at 575-6882 at least 72 hours prior to the hearing. Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call the accessibility hotline at 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals. The closest accessible BART station is the Civic Center station located at the intersection of Market, Hyde and Grove Streets. Accessible curbside parking has been designated at points along McAllister Street. Accessible MUNI lines serving City Hall are the 42 Downtown Loop, 9 San Bruno and 71 Haight/Noriega and the F line. Accessible MUNI Metro lines are the J, K, L, M, and N. For more information regarding MUNI accessible services, call (415) 923-6142.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force: Donna Hall, Sunshine Ordinance Task Force, City Hall, Room 409, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102-4683, Phone (415) 554-7724, fax (415) 554-7854, and e-mail

Donna_Hall@ci.sf.ca.us. Copies of the Sunshine Ordinance can be obtained from the Clerk of the Sunshine Task Force, the San Francisco Public Library, and on the City's website at www.ci.sf.ca.us/bdsupvrs/sunshine.

LOBBYING ACTIVITY

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Campaign and Governmental Conduct Code § 2.100] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415) 581-2300; fax (415) 581-2317; web site www.sfgov.org/ethics.

TAPES & TRANSCRIPTS OF MEETINGS & HEARINGS

Transcripts of hearings may be obtained from the Official Court Reporter, Claudine Woeber, at 883-7561.

Audiotapes of meetings may be obtained from the Board office. Please telephone 575-6880 for information.

Video tapes of selected meetings may be obtained from Citywatch, Channel 26. Please telephone 554-4188 for more information.

Note: Each item on this agenda may include the following documents:

1. Appellant's Preliminary Statement of Appeal and Brief.
2. Respondent's or Permit holder's Response Brief.
3. Appellant's Reply.
4. Department decision, order, permit, determination, resolution, or Notice of Violation.
5. Correspondence of public and parties.

These items are available for review at the Board's office, 1660 Mission St., Rm. 3036, front counter.

BOARD OF APPEALS
CITY & COUNTY OF SAN FRANCISCO
Robert H. Feldman, Executive Secretary
1660 Mission Street, Room 3036
San Francisco, California 94103
(415) 575-6880

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES - WEDNESDAY, NOVEMBER 13, 2002

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

Present: Vice President Kathleen Harrington, Commissioner Sabrina Saunders, Commissioner Douglas Shoemaker, and Commissioner Hisashi Sugaya. Absent: President Arnold Y. K. Chin.

Judith Boyajian, Deputy City Attorney for the City Attorney (DCA); Larry Badiner, Zoning Administrator, Planning Department; Laurence Kornfield, Chief Building Inspector, DBI; and Robert Feldman, Executive Secretary for the Board of Appeals; Official Court Reporter, Claudine Woeber.

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

SPEAKERS: None.

(2) **COMMISSIONERS COMMENTS & QUESTIONS:**

SPEAKERS: None.

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(3) **ADDENDUM ITEMS:**

ITEM A: 706 Wisconsin Street. Letter from Christopher Parber & Maria Esther Gonzalez Parber, requesting that the Board take jurisdiction over Building Permit Application No(s). 2002/08/06/3220. Permit Holder(s): Tom McDonald. Project: remodel kitchen, bathrooms, repair rear deck.

Date Permit(s) Issued:	August 6, 2002
Last Day to Appeal:	August 21, 2002
Jurisdiction Request(s) Received:	August 23, 2002

ACTION: Withdrawn by the requestors.

SPEAKERS: None.

ITEM B: 1479 – 3rd Avenue. Letter from Larry Badiner, Zoning Administrator, requesting rehearing of Appeal 01-196, Wydler vs. ZA, decided Jan. 30, 2002. Upon motion by Vice President McInerney, the Board voted 4-0-1 (Commissioner Saunders absent) to overrule the subject determination and to adopt the findings submitted by the appellant's attorney. Appellant: Aton Wydler. Determination: that use of the subject property as a 4-unit residential building is not permitted under the Planning Code, and is not considered to be a legal non-conforming use under Planning Code Sections 180 through 185.

ACTION: Upon motion by Commissioner Sugaya, the Board voted 3-0-2 (President Chin & Commissioner Saunders absent) to reschedule the matter to December 4, 2002.

SPEAKERS: None.

(4) **CONSENT ITEMS:** With the consent of the Department of Building Inspection, the Board will proceed to a vote without testimony to reduce the penalty (investigation fee) to two times the regular fee as provided for in the Building Code. Without consent the Board will take testimony and then decide the appeal.

(4A) **APPEAL NO. 02-146**

ANNIE XU, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[122 Tara Street.
[Appeal for refund of penalty imposed on [August 1, 2002, for work done without a permit.
[APPLICATION NO. 2002/07/09/0904.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Saunders, the Board voted 4-0-1 (President Chin absent) to reduce the subject penalty to 3 times the regular fee.

SPEAKERS: Annie Xu, Appellant explained why she feels the penalty is not justified since she had expected the contractors to obtain the necessary permits.

Leo McFadden, Senior Building Inspector, DBI, described what the district inspector had seen and said it appears the rear portion was built many years ago. No public comment for either side.

(4B) **APPEAL NO. 02-147**

JEFFREY GUNZENHAUSER, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[1601 – 20th Avenue.
[Appeal for refund of penalty imposed on [August 1, 2002, for work done without a permit.
[APPLICATION NO. 2002/06/20/9494.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Saunders, the Board voted 4-0-1 (President Chin absent) to reduce the subject penalty to 2 times the regular fee.
SPEAKERS: Appellant present but didn't speak. Department consented.

(4C)
VICTOR UME-UKEJE
& ELIZABETH CONDON, Appellant(s)
vs.

DEPT. OF BUILDING INSPECTION,
Respondent

APPEAL NO. 02-194
[2515-2519 Post Street.
[Appeal for refund of penalty imposed on Oct. 1,
[2002, for work done without a permit.
[APPLICATION NO. 2002/09/09/5962.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Saunders, the Board voted 4-0-1 (President Chin absent) to reduce the subject penalty to 2 times the regular fee.

SPEAKERS: Elizabeth Condon, Co-Appellant, said the problem was that there was a mix-up between the general contractor and the roofing contractor who is from out-of-town and no one filed for a re-roofing permit. She said she got a permit the minute she understood it was necessary. Lawrence Kornfield explained the history of the roofing permit process and that an out-of-town contractor might be unfamiliar with the local roofing permit process.

No public comment for either side.

(5)
MICAELA LEZCANO, Appellant(s)
vs.
DEPT. OF PUBLIC WORKS, Respondent

APPEAL NO. 01-213
[3560-3566 - 20th Street.
[Denial on October 25, 2001, of Permit to
[Remove Two Trees (without replacement).
[ORDER NO(S). 173,215 & 173,232
[ORIGINAL DECISION ON FEB. 6, 2002 TO
[UPHOLD DENIAL.
[REHEARING GRANTED JUNE 19, 2002.
[FOR REHEARING TODAY.

ACTION: Upon motion by Commissioner Saunders, the Board voted 4-0-1 (President Chin absent) to overrule the denial with respect to the fichus, on condition that the ficus be replaced with a smaller species, to be selected from a list of types furnished by DPW from which appellant is to choose one.

SPEAKERS: Tony Walcott, Urban Forester with DPW, explained that the Department opposed removal of the two trees because they were both young and in good condition. The larger one is a magnolia and the smaller a ficus. Amalia Lezcano, representing her mother, the Appellant, agreed that the trees are healthy but alleged that they are used by drug dealers to stash drugs and guns and create a serious criminal hazard for the neighborhood. She described the substantial neighborhood support for the appeal. Micaela Lezcano, Appellant, repeated her daughter's arguments for her appeal.

No public comment for either side.

(6) **APPEAL NO. 02-042**

CALVIN LEE, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[344 Taraval Street.
[Appealing a Notice of Violation dated Feb. 26, [2002, addressed to Calvin Lee, that the 2nd [floor residential dwelling unit has been [converted to commercial use as additional [dental office space and storage without the [required conditional use (CU) authorization.
[PUBLIC TESTIMONY HEARD JUNE 12, 2002.
[FOR FURTHER CONSIDERATION TODAY.

ACTION: Upon motion by Commissioner Sugaya, the Board voted 3-0-2 (President Chin & Commissioner Saunders absent) to reschedule the matter to the Indefinite Calendar / Call of the Chair.

SPEAKERS: None.

(7) **APPEAL NO. 02-063**

ERIC YOUNG
dba "SF BATTLE ZONE", Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[1968 Powell Street (583 Lombard Street).
[Appealing a Notice of Violation dated March 26, [2002, addressed to Gan Woo Wong, that the [small grocery store at the subject property has [been converted into an internet café without [benefit of a permit, in violation of Planning Code [§ 722.48 which requires conditional use (CU) [authorization for "Other Entertainment Uses" in [the North Beach Neighborhood Commercial [Zoning District.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Sugaya, the Board voted 1-3-1 (Commissioner Shoemaker, Vice President Harrington & Commissioner Saunders dissented, President Chin absent) to uphold the subject notice of violation. Afterwards, upon motion by Vice President Harrington, the Board voted 3-1-1 (Commissioner Sugaya dissented, President Chin absent) to rescind the previous vote and continue the matter to Feb. 26, 2003.

SPEAKERS: Lawrence Badiner, ZA, explained that the Department again has an enforcement division to enforce the Planning Code. Here it is a question of whether the subject use is allowed by the Code without conditional use authorization of the Planning Commission and whether the computer shop comes within the definition of a mechanical amusement device arcade with no more than ten machines or games. The Department can't differentiate between internet and game uses.

Eric Young, Appellant described his business and the support he has received from his neighbors. He said his is the only place in North Beach that tourists can use to check their e-mail and that this is a retail use, showing photos of the shop.

There was no public comment for either side.

(8) **APPEAL NO. 02-070**

MARY BAGGENSTOSS, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent

[1257B Dolores Street.
[Protesting the issuance on April 5, 2002, to [Anne Walzer, Permit to Alter a Building (1/4" [sheetrock attached to shearwalls, shelf and [structure to box in sloped cement foundation [along north wall, plywood floor to create level [floor).
[APPLICATION NO. 2002/04/05/3239.
[PUBLIC HEARING HELD & CLOSED JUNE 5, [2002. FURTHER TESTIMONY TAKEN [JUNE 26, 2002.
[FOR FURTHER CONSIDERATION TODAY.

ACTION: Upon motion by Commissioner Shoemaker, the Board voted 3-0-2 (President Chin, Commissioner Saunders absent) to uphold the subject permit.

SPEAKERS: None. The Appellant made no appearance.

(9) **APPEAL NO. 02-082**

COLLINS O'NEILL, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[590 Lisbon Street.
[Protesting the issuance on May 9, 2002, to Matt [Householder, Site Permit to Alter a Building [(remove an existing rear extension, construct a [new two-story extension consisting of living [room, bedroom, bath and closet; includes new [deck and stairs to rear yard).
[APPLICATION NO. 2002/01/03/6243S.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Saunders, the Board voted 4-0-1 (President Chin absent) to uphold the subject permit.

SPEAKERS: Collins O'Neill, Appellant described how the proposed addition to his neighbor's house will extend beyond his house and will affect his light and air. Matt Householder, the Respondent, described the neighborhood support for his project and said that his home will project only three feet beyond the Appellant's house.

No public comments for either side.

(10) **APPEAL NO. 02-084**

PETER TETERIATNIKOV, Appellant(s)
vs.
POLICE DEPARTMENT, Respondent

[765 Market Street.
[Appealing the denial on May 3, 2002, of
[Pushcart Peddler Permit.
[FOR HEARING TODAY.

ACTION: Upon motion by Vice President Harrington, the Board voted 4-0-1 (President Chin absent) to uphold the denial with a directive for the Police Department to assist the appellant in selecting a new site, preferably on Market Street.

SPEAKERS: Sgt. William Coggan for the S.F.P.D. explained the Police Code regulations concerning push carts and how the application fails to meet the standards since it is within 60 feet of a business which also sells hot dogs. He said he doesn't know the history of the legislation. Officer Rose Meyers of the S.F.P.D. permit bureau explained that the applicant needs to find another spot that meets the Code criteria for approval. Jack Helsper, speaking for the Appellant said he knows the application doesn't meet the criteria but that the Appellant had a similar business in Russia and felt he can make a living here with a pushcart on Market Street. He feels that this is a question of equity and such a hard-working independent immigrant should be allowed to conduct the business he knows.

No public comment for either side.

There being no further business, Vice President Kathleen Harrington adjourned the meeting at 8:13 p.m.

Kathleen Harrington, Vice President

Robert H. Feldman, Executive Secretary

Transcripts of these hearings can be obtained from Ms. Claudine Woeber, the Official Court Reporter, 883-7561.

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

REGULAR MEETING - WEDNESDAY, NOVEMBER 20, 2002

SPECIAL START TIME, 1:30 P.M., CITY HALL, ROOM 416

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

(2) **COMMISSIONERS COMMENTS & QUESTIONS:**

(3) **SPECIAL ITEMS:**

ITEM A: Request by Commissioner Shoemaker that the Board set aside its rules to allow him to request a rehearing of Appeal No(s). 02-152, McDonald's vs. ZA, subject property at Lakeshore Plaza, which was heard and decided October 30, 2002. Upon motion by Commissioner Saunders, the Board voted 4-1(Commissioner Sugaya dissented) to overrule the subject determination that a McDonald's restaurant is not a permitted use at Lakeshore Plaza under the conditional use (CU) authorization of the Planning Commission, appealed to and approved by the Board of Supervisors. Four votes are necessary to grant this request to set aside the rules. In the event the above motion is adopted, Commissioner Shoemaker shall request a rehearing of Appeal No(s). 02-152 (See Item B).

ITEM B: Lakeshore Plaza. Request for rehearing of Appeal No(s). 02-152, McDonald's vs. ZA, by Commissioner Shoemaker. See caption below.

APPEAL NO. 02-152

MCDONALD'S, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[Lakeshore Plaza Shopping Center on Sloat [Boulevard.
[Appealing a determination dated July 26, 2002, [addressed to Walter Wong at Jaidin [Consulting, that a hamburger restaurant is not [a permitted use at the subject property [because hamburger restaurants were [specifically omitted as an allowable use by the [Board of Supervisors when it approved [conditions for the Conditional Use (CU) [authorization at Lakeshore Plaza.
[FOR REHEARING TODAY IN THE EVENT [THE ABOVE TWO REQUESTS ARE [GRANTED.

ITEM C: Presentation to the Board by a representative of the City Attorney on the laws and ethics in regard to City Commissions (approximately twenty minutes).

(4) **ADDENDUM ITEMS:**

ITEM A: 5 Florida Street. Letter from Ha Ly, Requestor, asking that the Board take jurisdiction over the approval by the Police Dept. of an additional stop in front of the subject property for mobile catering truck no. 21. Mobile Catering Truck Permit Holder(s): Rosaana Li.

Date of Request for Additional Stop:	April 29, 2002
Date of Approval for Additional Stop:	Unknown; according to Police Permit Bureau, approval was given shortly after request filed.
Date of Jurisdiction Request:	July 15, 2002

ITEM B: 3025, 3027 & 3029 Buchanan Street. Letter from Stephen Sherman, attorney for Roland Childs, asking that the Board take jurisdiction over Building Permit Application No(s). 2001/18/24/5854. Permit Holder(s): K.L. Colwell. Project: comply with 3R 3206 (partial only).

Date Permit(s) Issued:	August 7, 2002
Last Day to Appeal:	August 22, 2002
Jurisdiction Request(s) Received:	October 15, 2002

(5) **CONSENT ITEMS (DBI PENALTY):** With the consent of the Department of Building Inspection, the Board will proceed to a vote without testimony to reduce the penalty (investigation fee) to two times the regular fee as provided for in the Building Code. Without consent the Board will take testimony and then decide the appeal.

(5A) **APPEAL NO. 02-091**

ROBERT HINDI, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[120 Elsie Street.
[Appeal for refund of penalty imposed on
[May 29, 2002, for work done without a permit.
[APPLICATION NO. 2002/03/19/1736.
[FOR HEARING TODAY.

(6) **APPEAL NO. V00-048**

ALLAN & LORRAINE THOMPSON, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[50 Magnolia/1755 Chestnut Streets.
[Denial on March 22, 2000, of Rear Yard [Variance to relocate one dwelling unit from the [1755 Chestnut Street building to the existing [rear carriage house at 50 Magnolia Street by [renovating and adding a floor and roof deck to [the existing building, setting back the new floor [15 feet from Magnolia Street; the proposal also [includes two 2'x7' extensions into the lightwells [of the existing 1755 Chestnut Street building; [the total number of dwelling units will remain [six units.
[VARIANCE CASE NO. 99.164V.
[FOR HEARING TODAY.

ITEMS (7A) & (7B) SHALL BE HEARD TOGETHER:

(7A) **APPEAL NO. 01-021**

POTRERO BOOSTERS NEIGHBORHOOD ASSN. & DOGPATCH NEIGHBORHOOD ASSN., Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[691 Tennessee Street.
[Protesting issuance on January 10, 2001, to [Robert Miller, Site Permit to Erect a Building [(25 live/work units).
[APPLICATION NO. 9917435S.
[FOR HEARING TODAY.

(7B) **APPEAL NO. 01-022**

POTRERO BOOSTERS NEIGHBORHOOD ASSN. & DOGPATCH NEIGHBORHOOD ASSN., Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[691 Tennessee Street.
[Protesting issuance on January 10, 2001, to [Robert Miller, Permit to Demolish a Building [(metal shed).
[APPLICATION NO. 9917436.
[FOR HEARING TODAY.

(8) **APPEAL NO. 01-115**

THERESA ISSERMAN, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent

[700 Vermont Street.
[Protesting issuance on June 20, 2001, to [Raymond & Hazel Guaraglia, Permit to Alter [a Building (demolish existing non-compliant [residential units per Notice of Violation No. [200114983; remove all utilities to ground level; [convert to original commercial space with no [structural work to be done).
[APPLICATION NO. 2001/06/20/1935.
[PUBLIC TESTIMONY HEARD JUNE 19, 2002.
[FOR FURTHER CONSIDERATION TODAY.

(9) **APPEAL NO. 02-033**

GERARDO HERNANDEZ, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[3165 Mission Street.
[Appealing a Notice of Violation dated February [25, 2002, addressed to Leticia Luna, that the [subject property is being used as a tow service [lot in violation of § 712.59 of the Planning Code, [which also prohibits the establishment of an [auto repair use in an NC-3 zoning district.
[FOR HEARING TODAY.
[**NOTE: PER THE REQUEST OF THE ZONING [ADMINISTRATOR, THIS CASE SHALL NOT [BE CALLED PRIOR TO 5:00 PM.**

(10) **APPEAL NO. 02-079**

BABA-MALOUF PROPERTIES, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[1596 Howard Street.
[Appealing a determination dated April 25, [2002, addressed to Joel Yodowitz at Reuben & [Alter, that the Job Housing Linkage Program [(JHLP) Ordinance fee is applicable to the net [addition of office space proposed for the [development project at the subject property, [and that the Certificate of Final Completion & [Occupancy cannot be issued until the JHLP [fee is paid in full.
[PUBLIC HEARING HELD & CLOSED [JUNE 19, 2002.
[FOR FURTHER CONSIDERATION TODAY.

ITEMS (11A) & (11B) SHALL BE HEARD TOGETHER:

(11A) **APPEAL NO. 02-089**

WILLIAM IRACKI, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[226 – 17th Avenue.
[Protesting a determination dated May 15, 2002, [addressed to Bruce Baumann of Baumann & [Associates, that the required rear yard setback [for the subject property is approximately 36 feet [based upon the average of adjacent buildings [pursuant to Planning Code Interpretations for [§ 134(c)3.
[FOR HEARING TODAY.

(11B) **APPEAL NO. 02-110**

WILLIAM IRACKI, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[226 – 17th Avenue.
[Protesting a determination dated June 6, 2002, [addressed to Bruce Baumann, that the required [rear yard setback for the subject property would [be approximately 40 feet instead of the 36 feet [as indicated in the determination dated May 15, [2002.
[FOR HEARING TODAY.

(12) **APPEAL NO. 02-090**

SOLAR PLANET INC., FILLMORE, Appellant(s)
vs.
POLICE DEPARTMENT, Respondent

[3161 Fillmore Street.
[Protesting the issuance on May 15, 2002, to [Yik Lui dba "Mabelle Salon", Massage [Establishment Permit.
[PERMIT NO. 107524.
[FOR HEARING TODAY.

(13) **APPEAL NO. 02-092**

ZELKO SIMONI, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[850 Corbett Avenue.
[Protesting the issuance on May 16, 2002, to [Lynn Fuelsher, Permit to Demolish a Building [(two-story single-family dwelling with 1,750sf of [ground floor area).
[APPLICATION NO. 2001/09/05/7535.
[FOR HEARING TODAY.

(14) **APPEAL NO. 02-095**

RAYMOND KALISKI, Appellant(s)
vs.

DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING COMMISSION DISAPPROVAL
§ 14 PARTIES: None.

[2141 Chestnut Street.
[Appealing the denial on June 4, 2002, of Site [Permit to Alter a Building (site permit application [for demolition of theatre facilities, new [construction of seismic upgrade, new concrete [level floor and shell space, tenant [improvements for retail space under separate [permit including handicap facilities, partitions [associated work for retail build out).
[APPLICATION NO. 2001/10/11/0487S.
[FOR HEARING TODAY.

(15) **APPEAL NO. 02-096**

RAFAEL MIRANDA, Appellant(s)
vs.
ZONING ADNMISTRATOR, Respondent

[1255 Goettingen Street.
[Appealing a determination dated May 22, 2002, [addressed to Rafael Miranda, that the legal use [of the subject property is a single-family [dwelling because the building was constructed [as a single-family house, because no permit [could be found which authorized the addition of [a second dwelling unit, and because the permit [history indicates the continued use of the [structure as a single-family structure.
[FOR HEARING TODAY.

(16) **APPEAL NO. 02-097**

VERNON LIDDELL, Appellant(s)
vs.
TAXI CIOMMISSION, Respondent

[Appealing the revocation on May 22, 2002, of [taxicab medallion no(s). 981.
[FOR HEARING TODAY.

(17) **APPEAL NO. 02-099**

DIANE LEBOW, Appellant(s)
vs.

DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[3000 Pierce Street.
[Protesting the issuance on March 13, 2002, to [Norman Cheney, Permit to Alter a Building (re-[roof existing garage, install safety railing)
[APPLICATION NO. 2002/03/13/1275.
[FOR HEARING TODAY.

(18) **APPEAL NO. V02-109**

SAL BALISTRERI, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[1 Grand View Avenue.
[Protesting the granting on June 10, 2002, to [Warner Schmalz, of Front & Rear Setback [Variance(s) (construction of a new single-family [dwelling with 2 stories at the front located on [Grand View Avenue and a total of 3 stories at [the rear on Stanton Street).
[Subject Property Owner(s): Frank & Maureen [Cafferkey.
[VARIANCE CASE NO. 2001.0799V.
[FOR HEARING TODAY

(19) **APPEAL NO. 02-131**

OCEAN BEACH
HOMEOWNER'S ASSOCIATION, Appellant(s)
vs.

DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[770 La Playa Street.
[Protesting the issuance on July 10, 2002, to the [Progress Foundation, Permit to Erect a Building [(four-story, fourteen-unit building with 3,972sf of [ground floor area).
[APPLICATION NO. 2000/12/20/8432.
[FOR HEARING TODAY.

(20) **APPEAL NO. 02-150**

JIMMY CHU, Appellant(s)
vs.

ZONING ADMINISTRATOR, Respondent

[1551 Taraval Street.
[Appealing a Permit Suspension Request dated [July 23, 2002, addressed to Dept. of Building [Inspection Director Frank Chiu, requesting that [Building Permit Application No(s). 9903316S be [suspended for the reason that proper [neighborhood notification under Planning Code [§ 312 was omitted in error.
[FOR HEARING TODAY.

ITEMS (21A), (21B), (21C), (21D) & (21E) SHALL BE HEARD TOGETHER:

(21A) **APPEAL NO. 02-159**

IRVING PETER LEE, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[530 – 47th Avenue.
[Protesting the issuance on August 5, 2002, to [Ed Vilhauer, Permit to Alter a Building (remodel [downstairs family room, bath and laundry; [remodel ground floor bedrooms and stairway to [2nd floor; add 2nd floor master bedroom, bath [and closet; seismic, electrical and mechanical [upgrades).
[APPLICATION NO. 2002/02/19/9488S.
[FOR HEARING TODAY.

(21B) **APPEAL NO. 02-160**

LEONARD G. JER, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[530 – 47th Avenue.
[Protesting the issuance on August 5, 2002, to [Ed Vilhauer, Permit to Alter a Building (remodel [downstairs family room, bath and laundry; [remodel ground floor bedrooms and stairway to [2nd floor; add 2nd floor master bedroom, bath [and closet; seismic, electrical and mechanical [upgrades).
[APPLICATION NO. 2002/02/19/9488S.
[FOR HEARING TODAY.

(21C) **APPEAL NO. 02-162**

ROCKY MO, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[530 – 47th Avenue.
[Protesting the issuance on August 5, 2002, to [Ed Vilhauer, Permit to Alter a Building (remodel [downstairs family room, bath and laundry; [remodel ground floor bedrooms and stairway to [2nd floor; add 2nd floor master bedroom, bath [and closet; seismic, electrical and mechanical [upgrades).
[APPLICATION NO. 2002/02/19/9488S.
[FOR HEARING TODAY.

(21D) **APPEAL NO. 02-164**

BRETT HORTON, Appellant(s)
vs.

DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[530 – 47th Avenue.
[Protesting the issuance on August 5, 2002, to [Ed Vilhauer, Permit to Alter a Building (remodel [downstairs family room, bath and laundry; [remodel ground floor bedrooms and stairway to [2nd floor; add 2nd floor master bedroom, bath [and closet; seismic, electrical and mechanical [upgrades).
[APPLICATION NO. 2002/02/19/9488S.
[FOR HEARING TODAY.

(21E) **APPEAL NO. 02-169**

BRETT HORTON, Appellant(s)
vs.

DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[530 – 47th Avenue.
[Protesting the issuance on August 20, 2002, to [Ed Vilhauer & Leigh Anne Varney, Permit to [Alter a Building (dry rot repair and foundation [cap, new slab on grade, plumbing and electrical [repair as required, all interior work only).
[APPLICATION NO. 2002/08/20/4435.
[FOR HEARING TODAY.

ADJOURNMENT.

Note: Each item on this agenda may include the following documents:

1) Appellant's Preliminary Statement of Appeal and Brief; 2) Respondent's or Permit holder's Response Brief; 3) Appellant's Reply; 4) Department decision, order, permit, determination, resolution, or Notice of Violation; and 5) Correspondence of public and parties.

These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter. Please call 575-6880 if you have any questions concerning this agenda.

Date posted: November 14, 2002

MEMBERS OF THE BOARD OF APPEALS

ARNOLD Y.K. CHIN	PRESIDENT
KATHLEEN HARRINGTON	VICE PRESIDENT
SABRINA N. SAUNDERS	COMMISSIONER
DOUGLAS SHOEMAKER	COMMISSIONER
HISASHI B. SUGAYA	COMMISSIONER

CLAUDINE WOEBER - OFFICIAL COURT REPORTER 883-7561; THE PRESIDING OFFICER WILL CALL A RECESS AT 6:30 P.M. & WHENEVER NECESSARY FOR THE CONVENIENCE OF THE COURT REPORTER.

PROCEDURE AT HEARINGS

The order of presentation of an appeal shall be as follows: In the case of appeal of denials, revocations and suspensions the representatives of the department, board, commission or person from whose order the appeal is taken shall speak first and shall be allowed seven minutes for their presentation and three minutes for rebuttal.

The appellant whose permit has been denied, revoked or suspended shall be allowed seven minutes for oral argument and three minutes for rebuttal.

In the case of protest appeals, the protestor shall speak first and shall be allowed seven minutes to present oral argument and three minutes for rebuttal, and the permit holder shall be allowed seven minutes to present oral argument and three minutes for rebuttal. The Board may request a departmental response at its own discretion.

Other persons desiring to speak before the Board on an appeal may speak once for up to three minutes.

SPECIAL NOTES

Mailed notices of public hearings on appeals are sent to all parties at least five days prior to the date of hearing. In the event that a matter is continued to a specific date by the presiding officer and announced to the parties in the hearing room, no additional mailed notice will be sent. Please call the Board office at 575-6880 for scheduling or other information during regular business hours, or visit our website at www.sfgov.org/bdappeal

Briefs are limited to twelve pages, excluding exhibits, which should be tabbed for easy reference.

The complete Rules of the Board are available for review at the Board office.

Material submitted by the public for Board review prior to a scheduled hearing before the Board, should be addressed to the Board President, and be received at the Board office, 1660 Mission Street, Room 3036, no later than 4:00 p.m. the Thursday (six days) prior to the scheduled public hearing. Persons unable to attend the scheduled public hearing may submit written comments

regarding a calendared item to the Board office. Comments received before noon on the day of the hearing will be made a part of the official record and will be brought to the attention of the Board at the public hearing. For complete distribution to all Commissioners of the Board, necessary staff and case files, submit an original and ten copies.

Pursuant to Government Code Section 65009, if you challenge, in court, the approval of a variance or development permit, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Board of Appeals at, or prior to, the public hearing.

Calendared items are sometimes withdrawn or rescheduled to a later date prior to hearing, or are taken out of order to accommodate special needs. The Board urges all parties to be present in the hearing room from 5:00 p.m. so that everyone has an opportunity to participate in the relevant public hearing when it is called.

PROHIBITION OF SOUND-PRODUCING ELECTRONIC DEVICES

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

ACCESSIBILITY INFORMATION

American sign language interpreters and/or sound enhancement system will be available upon request by contacting Catherine Johnson at 575-6882 at least 72 hours prior to the hearing. Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call the accessibility hotline at 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals. The closest accessible BART station is the Civic Center station located at the intersection of Market, Hyde and Grove Streets. Accessible curbside parking has been designated at points along McAllister Street. Accessible MUNI lines serving City Hall are the 42 Downtown Loop, 9 San Bruno and 71 Haight/Noriega and the F line. Accessible MUNI Metro lines are the J, K, L, M, and N. For more information regarding MUNI accessible services, call (415) 923-6142.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force: Donna Hall, Sunshine Ordinance Task Force, City Hall, Room 409, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102-4683, Phone (415) 554-7724, fax (415) 554-7854, and e-mail

Donna_Hall@ci.sf.ca.us. Copies of the Sunshine Ordinance can be obtained from the Clerk of the Sunshine Task Force, the San Francisco Public Library, and on the City's website at www.ci.sf.ca.us/bdsupvrs/sunshine.

LOBBYING ACTIVITY

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Campaign and Governmental Conduct Code § 2.100] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415) 581-2300; fax (415) 581-2317; web site www.sfgov.org/ethics.

TAPES & TRANSCRIPTS OF MEETINGS & HEARINGS

Transcripts of hearings may be obtained from the Official Court Reporter, Claudine Woeber, at 883-7561.

Audiotapes of meetings may be obtained from the Board office. Please telephone 575-6880 for information.

Video tapes of selected meetings may be obtained from Citywatch, Channel 26. Please telephone 554-4188 for more information.

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3. Appellant's Reply.
4. Department decision, order, permit, determination, resolution, or Notice of Violation.
5. Correspondence of public and parties.

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BOARD OF APPEALS
CITY & COUNTY OF SAN FRANCISCO
Robert H. Feldman, Executive Secretary
1660 Mission Street, Room 3036
San Francisco, California 94103
(415) 575-6880

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES - WEDNESDAY, NOVEMBER 20, 2002

SPECIAL START TIME, 1:30 P.M., CITY HALL, ROOM 416

Present: President Arnold Y. K. Chin, Vice President Kathleen Harrington, Commissioner Sabrina Saunders, Commissioner Douglas Shoemaker and Commissioner Hisashi Sugaya.

Judith Boyajian, Deputy City Attorney for the City Attorney (DCA); Laurence Badiner, Zoning Administrator, Planning Department; Laurence Kornfield, Chief Building Inspector, DBI; and Robert Feldman, Executive Secretary for the Board of Appeals; Official Court Reporter, Claudine Woeber.

(1) **PUBLIC COMMENT:** At this time, members of the public addressed the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, an opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, the opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

SPEAKERS: Several members of the audience led by May Goldberg and Ted Walser came forward and wished Commissioner Sugaya a happy birthday.

(2) **COMMISSIONERS COMMENTS & QUESTIONS:**

SPEAKERS: No speakers.

(3) **SPECIAL ITEMS:**

ITEM A: Request by Commissioner Shoemaker that the Board set aside its rules to allow him to request a rehearing of Appeal No(s). 02-152, McDonald's vs. ZA, subject property at Lakeshore Plaza, which was heard and decided October 30, 2002. Upon motion by Commissioner Saunders, the Board voted 4-1(Commissioner Sugaya dissented) to overrule the subject determination that a McDonald's restaurant is not a permitted use at Lakeshore Plaza under the conditional use (CU) authorization of the Planning Commission, appealed to and approved by the Board of Supervisors. Four votes are necessary to grant this request to set aside the rules. In the event the above motion is adopted, Commissioner Shoemaker shall request a rehearing of Appeal No(s). 02-152 (See Item B).

PUBLIC COMMENT IN SUPPORT OF MOTION TO SET ASIDE RULES AND GRANT REHEARING OF APPEAL NO. 02-152.

ACTION: Upon motion by Vice President Harrington, the Board voted 5-0 to set aide the rules, and allow Commissioner Shoemaker to request a rehearing.

SPEAKERS: William Chionsini, President of West of Twin Peaks Council, including Lakeshore H.O.A. said he is fifty feet away from proposed McDonald's site and strongly opposes it. He said motions were justified because concerned and affected neighbors had no notice of the hearing of the issue and haven't been heard yet.

James Stark agreed with the arguments above and complained of the failure of notice and said nothing has changed since neighbors had worked on the CU case some years ago. Bruce Selby of Lakeshore Acres Improvement Club said he represents 1100 homes that support the proposed motions. He said at last week's general meeting they were informed by the property owners that no McDonald's was going in and that there was nothing substantive on new tenancy yet for the vacated Arby space.

David Pilpel said the motion should be adopted because no one was present at the Board hearing and that the neighbors had been promised no McDonald's at the CU hearing in 1988. Michael Pilpel, father of David, repeated that they were promised no McDonald's and the conditions of the CU have been violated over the years. Parking is the greatest problem there right now and the proposed restaurant would badly exacerbate the problem.

Ronald Chun said he has video where Management said no McDonald's would locate in the Shopping Center.

Karen Kinchan said once she found out of the item last night she called neighbors who were now speaking. Jeannette Dutil said she is upset that she had no notice of the Board's hearing on the determination.

Chris Manitsas said the plaza had been allowed in the residential district to serve the neighborhood but a McDonald's will bring in people from other areas.

Bud Wilson of the West of Twin Peaks Council urged the Board to reopen the case so the neighbors can be heard on the issue.

Dave Bisho said the Department had made an interpretation with no neighborhood in-put. D. J. Canepa for Supervisor Yee's office said he is in support of the motion.

Marion Getz said she lives behind the Plaza and also heard from management that there would be no McDonald's on the site.

Anne Marie Conroy said people are very upset and matter should be reopened. She said pattern of owner was to say one thing and do another.

Heddy Pilpel said she had no notice of the Board's consideration of the matter and she supports a rehearing, especially since Sloat Boulevard is already a raceway and this use will make it worse. Andrea Bryden said she supports all the arguments already given for a rehéaring.

Barbara Chionsini showed photos of the Plaza to support neighbors' arguments for a rehearing.

Dr. Ruben Jaffe said he picks up the mess left by students at the Plaza and a garage was never built in the Plaza and Lincoln and Lowell High Schools are larger than ever.

Sean Elsbernd for Supervisor Tony Hall's office said he supports the motions so that neighbors can be heard on the issues.

Ray Doyle said she called thirty people when she heard of the meeting, as she is the secretary of the Homeowners Association. They had been told there would be no McDonald's in the Plaza.

Judith Boyajian, DCA said that since neither party had requested a rehearing the Board would have to set aside its rules to allow a Commissioner to request one.

Lawrence Badiner, Zoning Administrator, explained his determination which he said is based on his understanding of the conditions imposed by the Supervisors in granting the CU for the Plaza in 1989. He said that there are no notice requirements for a determination under Section 312 of the Code. He said those concerned can request DR at the Commission for any building permits filed for this project and any modification of conditions of the CU can only come from the Commission after a public hearing.

Patrice Fambrini for McDonald's said the determination was just a use clarification so that permits can be applied for. She said the CU authorized a large fast food restaurant and that her client's business qualified for the site.

ITEM B: Lakeshore Plaza. Request for rehearing of Appeal No(s). 02-152, McDonald's vs. ZA, by Commissioner Shoemaker. See caption below.

ACTION: Upon motion by Vice President Harrington, the Board voted 5-0 to set aide the rules, and allow Commissioner Shoemaker to request a rehearing.

SPEAKERS: Upon motion by Commissioner Shoemaker, the Board voted 4-1 (President Chin dissented) to grant the request for rehearing. Afterwards, upon motion by President Chin, the Board voted 4-1 (Commissioner Sugaya dissented) to set the rehearing for Dec. 11, 2002.

APPEAL NO. 02-152

MCDONALD'S, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[Lakeshore Plaza Shopping Center on Sloat [Boulevard.
[Appealing a determination dated July 26, 2002, [addressed to Walter Wong at Jaidin [Consulting, that a hamburger restaurant is not [a permitted use at the subject property [because hamburger restaurants were [specifically omitted as an allowable use by the [Board of Supervisors when it approved [conditions for the Conditional Use (CU) [authorization at Lakeshore Plaza.

[FOR REHEARING TODAY IN THE EVENT [THE ABOVE TWO REQUESTS ARE [GRANTED.

ITEM C: Presentation to the Board by a representative of the City Attorney on the laws and ethics in regard to City Commissions (approximately twenty minutes).

SPEAKERS: Claire Silvia, Deputy City Attorney, gave a presentation to the Board on ethics and and conflict statutes and ordinances and was supported by Judith Boyijian on the subject of ex-parte communications.

(4) **ADDENDUM ITEMS:**

ITEM A: 5 Florida Street. Letter from Ha Ly, Requestor, asking that the Board take jurisdiction over the approval by the Police Dept. of an additional stop in front of the subject property for mobile catering truck no. 21. Mobile Catering Truck Permit Holder: Rosaana Li.

Date of Request for Additional Stop:	April 29, 2002
Date of Approval for Additional Stop:	Unknown; according to Police Permit Bureau, approval was given shortly after request filed.
Date of Jurisdiction Request:	July 15, 2002

ACTION: Upon motion by President Chin, the Board voted 5-0 to deny jurisdiction and return the filing fees to the requestor.

Ha Ly, Appellant asked the Board to allow him the catering truck stop he had applied for.

SPEAKERS: Sgt. William Coggan of the San Francisco Police Department said the issue is the request for an additional truck stop and that the Board has no jurisdiction in this matter which is not a grant, disapproval, suspension or revocation of a permit, but just a request for another stop site on an approved permit. The Department has allowed the operator 69 stops on his route and Ms. Li has 33 stops and the stops change frequently as construction sites open and close and businesses relocate. This is a stop change and not a permit decision.

Alfred Hoey, spoke for his wife, Rosaana Li and explained the problem with a diagram showing the locations of the stops in question.

No public comment for either side.

ITEM B: 3025, 3027 & 3029 Buchanan Street. Letter from Stephen Sherman, attorney for Roland Childs, asking that the Board take jurisdiction over Building Permit Application No(s). 2001/18/24/5854. Permit Holder(s): K.L. Colwell. Project: comply with 3R 3206 (partial only).

Date Permit(s) Issued:	August 7, 2002
Last Day to Appeal:	August 22, 2002
Jurisdiction Request(s) Received:	October 15, 2002

ACTION: Upon motion by Commissioner Shoemaker, the Board voted 2-3 (President Chin, Vice President Harrington & Commissioner Sugaya dissented) to grant the jurisdiction request. Four votes being necessary to grant jurisdiction, the motion failed and jurisdiction was denied.

SPEAKERS: Stephen Sherman, attorney for Roland Childs asked the Board to allow his client to file a late appeal of his landlord's permit because he had tried to file two weeks after he had notice from the landlord's attorney on October 1 which was after the appeal period expired. Denise Leadbetter, attorney for the landlord and permit holder said that her client hadn't yet received a letter from the requestor explaining what his issues are and the subject unit is illegal and required to be removed. It has no kitchen or heat, only a hot plate, which is a Health Code violation. The space is part of the upper unit and shouldn't be used as a separate unit. This is a condo conversion and a physical inspection is necessary and violation abated. Laurence Kornfield, CBI of DBI, explained that the Building Code requires notice to tenants whose units are being removed to get notice of permit issuance only for buildings with five or more units and here it is only a four unit building and this is an issue of the 3-R Report and not a permit. Judith Boyajian, DCA, explained that a permit is only suspended after an appeal is filed.

(5) **CONSENT ITEMS (DBI PENALTY):** With the consent of the Department of Building Inspection, the Board will proceed to a vote without testimony to reduce the penalty (investigation fee) to two times the regular fee as provided for in the Building Code. Without consent the Board will take testimony and then decide the appeal.

(5A) **APPEAL NO. 02-091**

ROBERT HINDI, Appellant(s)	[120 Elsie Street.
vs.	[Appeal for refund of penalty imposed on
DEPT. OF BUILDING INSPECTION,	[May 29, 2002, for work done without a permit.
Respondent	[APPLICATION NO. 2002/03/19/1736.
PLANNING DEPT. APPROVAL	[FOR HEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted 3-2 (Commissioners Shoemaker & Sugaya dissented) to reduce the penalty to 3 times the regular fee. Four votes being necessary to overturn any departmental action, the motion failed and the subject penalty was upheld. Afterwards, upon motion by President Chin, the Board voted 5-0 to rescind the previous vote, and to reschedule the matter to Dec. 4, 2002. The Appellant appeared after the vote was taken.

SPEAKERS: None

(6) **APPEAL NO. V00-048**

ALLAN & LORRAINE THOMPSON, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[50 Magnolia/1755 Chestnut Streets.
[Denial on March 22, 2000, of Rear Yard [Variance to relocate one dwelling unit from the [1755 Chestnut Street building to the existing [rear carriage house at 50 Magnolia Street by [renovating and adding a floor and roof deck to [the existing building, setting back the new floor [15 feet from Magnolia Street; the proposal also [includes two 2'x7' extensions into the light [wells [of the existing 1755 Chestnut Street [building; [the total number of dwelling units will [remain six .
[VARIANCE CASE NO. 99.164V.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Saunders, the Board voted 5-0 to reschedule the matter to Jan. 15, 2003.

SPEAKERS: None

ITEMS (7A) & (7B) SHALL BE HEARD TOGETHER:

(7A) **APPEAL NO. 01-021**

POTRERO BOOSTERS NEIGHBORHOOD ASSN. & DOGPATCH NEIGHBORHOOD ASSN., Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[691 Tennessee Street.
[Protesting issuance on January 10, 2001, to [Robert Miller, Site Permit to Erect a Building [(25 live/work units).
[APPLICATION NO. 9917435S.
[FOR HEARING TODAY.

(7B) **APPEAL NO. 01-022**

POTRERO BOOSTERS NEIGHBORHOOD ASSN. & DOGPATCH NEIGHBORHOOD ASSN., Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPARTMENT APPROVAL

[691 Tennessee Street.
[Protesting issuance on January 10, 2001, to [Robert Miller, Permit to Demolish a Building [(metal shed).
[APPLICATION NO. 9917436.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Shoemaker, the Board voted 5-0 to revoke both permits.

SPEAKERS: Patrice Fambini for the permit holder said her client was withdrawing his permits so that he can seek refund of the application fees he paid. Judith Bayajian, DCA, said the cleanest process for terminating the appeals would be by the Board revoking the permits and not by a dismissal of the appeals.

APPEAL NO. 01-115

THERESA ISSERMAN, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent

[700 Vermont Street.
[Protesting issuance on June 20, 2001, to [Raymond & Hazel Guaraglia, Permit to Alter [a Building (demolish existing non-compliant [residential units per Notice of Violation No. [200114983; remove all utilities to ground level; [convert to original commercial space with no [structural work to be done).
[APPLICATION NO. 2001/06/20/1935.
[PUBLIC TESTIMONY HEARD JUNE 19, 2002.
[FOR FURTHER CONSIDERATION TODAY.

ACTION: Upon motion by Commissioner Saunders, the Board voted 5-0 to reschedule the matter to Feb. 12, 2003.

SPEAKERS: None

(9) **APPEAL NO. 02-033**

GERARDO HERNANDEZ, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[3165 Mission Street.
[Appealing a Notice of Violation dated February [25, 2002, addressed to Leticia Luna, that the [subject property is being used as a tow service [lot in violation of § 712.59 of the Planning Code, [which also prohibits the establishment of an [auto repair use in an NC-3 zoning district.
[FOR HEARING TODAY.
[**NOTE: PER THE REQUEST OF THE ZONING [ADMINISTRATOR, THIS CASE SHALL NOT [BE CALLED PRIOR TO 5:00 PM.**

ACTION: Upon motion by Commissioner Shoemaker, the Board voted 5-0 to uphold the subject Notice of Violation.

SPEAKERS: Laurence Badiner, ZA, explained the reason for the Notice of Violation, use of a lot as a parking lot of a tow-car service in violation of the NC-3 zoning of the property; such use is permitted only in an industrial district and a used car lot needs a new Conditional Use Authorization to be reestablished. Jeremy Paul, consultant for the Appellant said his client is now in compliance with the Code and seeks to use the lot as it has traditionally been used as a used car lot for which the P.D. license has been renewed. It is no longer used as a parking lot for a towing service.

PUBLIC COMMENT FOR ZA: Jamie Ross said he has a business near the lot and there has been no conversation between the Appellant and the neighbors and there are still trucks and wrecked cars on the lot. Neighbors have been complaining a long time.

NO PUBLIC COMMENT FOR APPELLANT.

(10) **APPEAL NO. 02-079**

BABA-MALOUF PROPERTIES, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[1596 Howard Street.
[Appealing a determination dated April 25, [2002, addressed to Joel Yodowitz at Reuben & [Alter, that the Job Housing Linkage Program [(JHLP) Ordinance fee is applicable to the net [addition of office space proposed for the [development project at the subject property, [and that the Certificate of Final Completion & [Occupancy cannot be issued until the JHLP [fee is paid in full.
[PUBLIC HEARING HELD & CLOSED [JUNE 19, 2002.
[FOR FURTHER CONSIDERATION TODAY.

ACTION: Upon motion by President Chin, the Board voted 5-0 to continue the matter to Dec. 11, 2002, with the appellant to furnish 11 copies of transcripts or videotapes or audiotapes.

SPEAKERS: Joel Yodowitz, attorney for the Appellant, agreed to a rescheduling of the hearing and said that he was making a vested rights argument since there has been substantial compliance before the fee requirement went into effect. The fee would now be six or seven hundred thousand dollars, but the date on the ZA's letter was correct and no fee should now be required. Laurence Badiner, ZA, said that there had been a breach of conditions and that the Appellant understood the meaning of his letter and the fee should be paid.

ITEMS (11A) & (11B) SHALL BE HEARD TOGETHER:

(11A) **APPEAL NO. 02-089**

WILLIAM IRACKI, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[226 – 17th Avenue.
[Protesting a determination dated May 15, 2002, [addressed to Bruce Baumann of Baumann & [Associates, that the required rear yard setback [for the subject property is approximately 36 feet [based upon the average of adjacent buildings [pursuant to Planning Code Interpretations for [§ 134(c) 3.
[FOR HEARING TODAY.

(11B) **APPEAL NO. 02-110**

WILLIAM IRACKI, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[226 – 17th Avenue.
[Protesting a determination dated June 6, 2002,
[addressed to Bruce Baumann, that the required
[rear yard setback for the subject property would
[be approximately 40 feet instead of the 36 feet
[as indicated in the determination dated May 15,
[2002.
[FOR HEARING TODAY.

ACTION: Upon motion by Vice President Harrington, the Board voted 5-0 to uphold both determinations.

SPEAKERS: Laurence Badiner, ZA, explained the rear yard averaging provisions of the Planning Code and how they apply in this case and why there are two determinations. Steve Williams, Attorney for the permit holders said the building is old and his clients ask for the interpretation that would allow them to add amenities to their house within the meaning of the Code.

PUBLIC COMMENT FOR ZONING ADMINISTRATOR AND PERMIT HOLDER: Joel Yodowitz explained how the rear yard averaging is done and that the word "small" means that if averaging can be done that the yard shall be reduced. The ZA said that averaging is proper in this case and the Appellant's position is not based on any previous interpretation.

PUBLIC COMMENT FOR APPELLANTS: Augusta Rothstein said she lives around the corner and that the mid-block open space is vital to the neighbors and is threatened if averaging is allowed. She feels Williams' compromise is reasonable. Juanita Waycott said the Code hasn't changed and is clear and a longer building suits the 54-foot rear yard. She wants the Code enforced. Norma Cook of 238 17th Avenue said she has great sympathy for the Appellants and Mr. Ukawa, who will be towered over if the project is allowed. Hiroshi Fukuda asked that no rear yard averaging be allowed here because it will allow a monster home to be built.

(12) **APPEAL NO. 02-090**

SOLAR PLANET INC., FILLMORE, Appellant(s)
vs.
POLICE DEPARTMENT, Respondent

[3161 Fillmore Street.
[Protesting the issuance on May 15, 2002, to
[Yik Lui dba "Mabelle Salon", Massage
[Establishment Permit.
[PERMIT NO. 107524.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Saunders, the Board voted 5-0 to uphold the subject permit.

SPEAKERS: Sgt. William Coggan, S.F.P.D. said this massage use is accessory use for one or two tables and not a massage establishment. It is accessory to the salon since a regular massage establishment can't be approved within 100 feet of an existing one. Here the Planning Code allows

an accessory use within 1000 feet under sections 204 and 790.201 and it is acceptable to the Police Department.

Melanie Henderson, speaking for the Appellant said her salon is only 50 feet away from the permit holder's and it will hurt their business which has 25 massage tables, with business already off 15% this year. Her business is one-third massage and all her masseuses are professionally trained. She said the 1000-foot rule should be enforced here.

Yik Lui, Permit Holder, said his one or two massage tables are an accessory use to his salon business, and lawful under Section 204 of the Planning Code. He said his small accessory operation won't hurt the Appellant's business.

NO PUBLIC COMMENT FOR EITHER SIDE.

(13) **APPEAL NO. 02-092**

ZELKO SIMONI, Appellant(s)
vs.

DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[850 Corbett Avenue.
[Protesting the issuance on May 16, 2002, to
[Lynn Fuelsher, Permit to Demolish a Building
[(two-story single-family dwelling with 1,750sf of
[ground floor area).
[APPLICATION NO. 2001/09/05/7535.
[FOR HEARING TODAY.

ACTION: Upon motion by Vice President Harrington, the Board voted 5-0 to uphold the subject permit.

SPEAKERS: Zelko Simoni, Appellant, said the existing house is in good condition and should be rehabilitated and not demolished since there is a market for small old houses. Bruce Baumann speaking for the Permit Holder, Lynn Fuelsher, said the building was built in 1950 and has an illegal unit in it. Six units are permitted on the lot, making it a good housing opportunity site in an area of apartment houses zoned RM-1. He saw no real issue in the appeal and no neighbor responded to Planning Department.

Lawrence Badiner, ZA, said there were no DR requests for this project. City is losing one unit and gaining six a net gain of five units.

NO PUBLIC COMMENT FOR APPELLANT.

PUBLIC COMMENT FOR PERMIT HOLDERS:

Joe O'Donoghue for the Residential Builders Association said that this Appellant is a landlord and the Appeal is ironic since the Corbett Street area is a high density neighborhood already and appeal seems to be one of retribution which raises the cost of creating the new housing. Jeremy Paul said that the Appellant filed a similar appeal recently with no issues to be discussed.

(14) **APPEAL NO. 02-095**

RAYMOND KALISKI, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING COMMISSION DISAPPROVAL
§ 14 PARTIES: None.

[2141 Chestnut Street.
[Appealing the denial on June 4, 2002, of Site [Permit to Alter a Building (site permit application [for demolition of theater facilities, new [construction of seismic upgrade, new concrete [level floor and shelf space, tenant [improvements for retail space under separate [permit including handicap facilities, partitions [and associated work for retail build out).
[APPLICATION NO. 2001/10/11/0487S.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Saunders, the Board voted 5-0 to reschedule the matter to Call of the Chair.

SPEAKERS: None.

(15) **APPEAL NO. 02-096**

RAFAEL MIRANDA, Appellant(s)
vs.
ZONING ADNMISTRATOR, Respondent

[1255 Goettingen Street.
[Appealing a determination dated May 22, 2002, [addressed to Rafael Miranda, that the legal use [of the subject property is a single-family [dwelling because the building was constructed [as a single-family house, because no permit [could be found which authorized the addition of [a second dwelling unit, and because the permit [history indicates the continued use of the [structure as a single-family structure.
[FOR HEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted 5-0 to reschedule the matter to Jan. 15, 2003.

SPEAKERS: None

(16) **APPEAL NO. 02-097**

VERNON LIDDELL, Appellant(s)
vs.
TAXI CIOMMISSION, Respondent

[Appealing the revocation on May 22, 2002, of [taxicab medallion no(s). 981.
[FOR HEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted 5-0 to uphold the subject revocation.

SPEAKERS: Naomi Little, Executive Director of the Taxi Commission, said the Appellant was not present and asked the Board to uphold the decision of the Taxi Commission.

NO PUBLIC COMMENT FOR EITHER SIDE.

(17) **APPEAL NO. 02-099**

DIANE LEBOW, Appellant(s)
vs.

DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[3000 Pierce Street.
[Protesting the issuance on March 13, 2002, to [Norman Cheney, Permit to Alter a Building (re-[roof existing garage, install safety railing)
[APPLICATION NO. 2002/03/13/1275.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Shoemaker, the Board voted 4-1 to revoke the subject permit.

SPEAKERS: Jeremy Paul, consultant for the Appellant, said his client's deck is Code compliant but the Permit Holder's project should be required to seek and obtain a variance before a permit is approved. His Client is afraid a deck user will drop something onto her property and hurt someone. There are several garages in the neighborhood and only one has a deck for recreational use. There is no permit application showing in the DBI computer and the project should have Code complying plans. Norman Cheney, Permit Holder, said there are other properties in the area with decks similar to his proposal which will provide required open space for his tenants. His plans are an amendment to original plans with a garage deck with railing.

Laurence Kornfield, CBI, DBI, said that the Board had directed the Permit Holder to take out a new permit and he did but he has not seen the plans with it yet. This appeal is of the plans. This is not a proper revision and a new application with plans must be submitted for review. Lawrence Badiner, ZA, said that no Section 311 notice to neighbors was required for this application and the project was approved by the Department with no problems since exception to rear yard provisions are made for decks on non-complying structures.

NO PUBLIC COMMENTS FOR EITHER SIDE.

(18) **APPEAL NO. V02-109**

SAL BALISTRERI, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[1 Grand View Avenue.
[Protesting the granting on June 10, 2002, to [Warner Schmalz, of Front & Rear Setback [Variance(s) (construction of a new single-family [dwelling with 2 stories at the front located on [Grand View Avenue and a total of 3 stories at [the rear on Stanton Street).
[Subject Property Owner(s): Frank & Maureen [Cafferkey.
[VARIANCE CASE NO. 2001.0799V.
[FOR HEARING TODAY

ACTION: Upon motion by President Chin, the Board voted 5-0 to uphold the subject variance.

SPEAKERS: Sal Balistreri, Appellant, asked for a continuance so he can prepare a reply brief. He said the Permit Holder intends to sell the property. He said the project architect had met with his attorney twice but there was no agreement reached. He said the owner had reneged on the original agreement. Alice Barkley, attorney for the Permit Holder, said it would not be fair to continue the hearing. Mr. Balistreri said that the proposed house will be 50% larger than any house in this area and that no other variance has been granted in the neighborhood. Bill Heijn, architect for Appellant said Requirements No. 2 and No. 5 have not been met and ZA findings are wrong. Lawrence Badiner, ZA, said that all five requirements for a variance have been met and his variance decision is justified and Heijn's alternate plan would need two variances to be approved. Warner Schmaltz, Project Architect, said that the ZA is correct and the Appellant won't be injured by his design.

NO PUBLIC COMMENT FOR APPELLANT.

PUBLIC COMMENT FOR ZONING ADMINISTRATOR: Michael Phillips of 62 Stanton said the process included the neighbors and was handled superbly by the Zoning Administrator. Sonya Richardson said she had worked with the owner and architect for a month and plans are now very workable and an addition to the neighborhood. Bryan Sokolow, 78 Stanton said he is behind the project and not affected by it and he is sad about this appeal. Sharon Eastman, 82 Stanton said she is the second most impacted and that this variance ought to be granted. Joe O'Donoghue of Residential Builders Association said the owner is a member and could have built two units but instead is building just one. Alice Barkley as a member of the public said that the hardship here justified the variance for this unusually shaped lot and the ZA findings are sufficient to support the decision.

(19) **APPEAL NO. 02-131**

OCEAN BEACH HOMEOWNER'S ASSOCIATION, Appellant(s)	[770 La Playa Street.
vs.	[Protesting the issuance on July 10, 2002, to the [Progress Foundation, Permit to Erect a Building [(four-story, fourteen-unit building with 3,972sf of
DEPT. OF BUILDING INSPECTION, Respondent	[ground floor area).
PLANNING DEPT. APPROVAL	[APPLICATION NO. 2000/12/20/8432.
	[FOR HEARING TODAY.

ACTION: Withdrawn by appellants prior to hearing.

(20) **APPEAL NO. 02-150**

JIMMY CHU, Appellant(s)	[1551 Taraval Street.
vs.	[Appealing a Permit Suspension Request dated [July 23, 2002, addressed to Dept. of Building
ZONING ADMINISTRATOR, Respondent	[Inspection Director Frank Chiu, requesting that [Building Permit Application No(s). 9903316S be [suspended for the reason that proper [neighborhood notification under Planning Code [§ 312 was omitted in error.
	[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Saunders, the Board voted 5-0 to reschedule the matter to Dec. 4, 2002.

SPEAKERS: None.

ITEMS (21A), (21B), (21C), (21D) & (21E) SHALL BE HEARD TOGETHER:

(21A) **APPEAL NO. 02-159**

IRVING PETER LEE, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[530 – 47th Avenue.
[Protesting the issuance on August 5, 2002, to [Ed Vilhauer, Permit to Alter a Building (remodel [downstairs family room, bath and laundry; [remodel ground floor bedrooms and stairway to [2nd floor; add 2nd floor master bedroom, bath [and closet; seismic, electrical and mechanical [upgrades).
[APPLICATION NO. 2002/02/19/9488S.
[FOR HEARING TODAY.

(21B) **APPEAL NO. 02-160**

LEONARD G. JER, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[530 – 47th Avenue.
[Protesting the issuance on August 5, 2002, to [Ed Vilhauer, Permit to Alter a Building (remodel [downstairs family room, bath and laundry; [remodel ground floor bedrooms and stairway to [2nd floor; add 2nd floor master bedroom, bath [and closet; seismic, electrical and mechanical [upgrades).
[APPLICATION NO. 2002/02/19/9488S.
[FOR HEARING TODAY.

(21C) **APPEAL NO. 02-162**

ROCKY MO, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[530 – 47th Avenue.
[Protesting the issuance on August 5, 2002, to [Ed Vilhauer, Permit to Alter a Building (remodel [downstairs family room, bath and laundry; [remodel ground floor bedrooms and stairway to [2nd floor; add 2nd floor master bedroom, bath [and closet; seismic, electrical and mechanical [upgrades).
[APPLICATION NO. 2002/02/19/9488S.
[FOR HEARING TODAY.

(21D) **APPEAL NO. 02-164**

BRETT HORTON, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[530 – 47th Avenue.
[Protesting the issuance on August 5, 2002, to [Ed Vilhauer, Permit to Alter a Building (remodel [downstairs family room, bath and laundry; [remodel ground floor bedrooms and stairway to [2nd floor; add 2nd floor master bedroom, bath [and closet; seismic, electrical and mechanical [upgrades).
[APPLICATION NO. 2002/02/19/9488S.
[FOR HEARING TODAY.

(21E) **APPEAL NO. 02-169**

BRETT HORTON, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[530 – 47th Avenue.
[Protesting the issuance on August 20, 2002, to [Ed Vilhauer & Leigh Anne Varney, Permit to [Alter a Building (dry rot repair and foundation [cap, new slab on grade, plumbing and electrical [repair as required, all interior work only).
[APPLICATION NO. 2002/08/20/4435.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Saunders, the Board voted 5-0 to uphold the subject permit.

SPEAKERS: Sue Hestor representing the Appellants said that the Appellants only want the impact on the windows mitigated because of the privacy issue. Through the proposed side windows the Permit Holders can look into the Mo's bedroom. Appellants are only asking for a modest change. Peter Lee, Appellant said he is uncomfortable because the proposal affects his privacy. Most of houses in the area were built in the 20's and 30's and the proposal is not in harmony with them since it has too many windows. Donna Jer, Appellant, said she is a retired senior citizen who has had heart surgery recently. Robin Cheatham, her son-in-law, said her privacy will be severely impacted with new windows facing her bedroom. Rocky Mo, Appellant, said the permit holders will look directly into his two bedrooms. Eileen Mo, his daughter, asked that the proposed third floor be set back three feet because the proposed south bedroom will look directly into her bedroom and she will have to draw her curtain for the first time. Shelly Horton, Appellant, said she is a small business owner who lives behind the subject property. The proposed windows look into her downstairs bedroom which she uses as an office, as well as the upstairs bedroom. No other house has wall-to-wall windows. F. Joseph Butler, architect for Brett and Shelly Horton, said the solution to the problem is to alter the space, quantity, and size of the third story windows on the proposal. Proposal is a wall of windows unlike all the houses on the block. Raising sills to five feet would allow views and insure privacy of the homes. Brett Horton said the issues are privacy and lack of compatibility of the design with its design elements out of character with other houses which are modest, with no sloping roofs and overhang. He doesn't want a "Richmond Special". Alice Barkley, attorney for Permit Holders said that the rear yard is 75 or 80 feet away from neighbors and the project won't impact the neighbors. The angle of the roof will prevent invasion of Mo's

property. She said that there are no Building Code violations and the floor area excludes exterior walls with the proposed upper level being less than 500 square feet and the City needs family housing. Lawrence Badiner, ZA, said that the Commission found that there are no exceptional or extraordinary circumstances here and didn't grant DR request.

PUBLIC COMMENT FOR APELLANTS: Fatina Hannenberg, 8231 Geary Boulevard said that proposal will be a big box that will block her views and design doesn't go with the neighborhood.

PUBLIC COMMENT FOR PERMIT HOLDERS: Proctor Jones said he has known Permit Holders for 30 years and this tasteful addition will permit the family to stay in City. Michael Fox said privacy is an issue for all houses in the City and this is a well-thought out project. Duane Perry said he wants continuity and a stable community and Permit Holders shouldn't be prevented from improving their quality of life. Roger Cornut said the proposal wouldn't affect the front and there are many different third floor shapes to houses. Art Adams said he thinks the design is modest and consistent with the area. Scott Raymond said he likes to see owners adding to their homes. If privacy is an issue then close your curtains and shades. Marvin Rose has a Rousseau also and now families are moving into them. He thinks the proposal is tasteful. Gaye Raymond said she totally supports the project and her house has a slanted roof also and privacy is always an issue. Dennis Belfortie said he supports the project. Joe O'Donoghue of RBA said he is shocked by the facts and the modest addition should be upheld. Permit Holders Ed Vilhauer and Leigh-Anne Varney explained their project.

There being no further business President Chin adjourned the meeting at 9:55 p.m.

Arnold Y. K. Chin, President

Robert H. Feldman, Executive Secretary

Transcripts of these hearings can be obtained from Ms. Claudine Woeber, the Official Court Reporter, 833-7561.

BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

REGULAR MEETING - WEDNESDAY, DECEMBER 4, 2002

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

DOCUMENTS DEPT.

DEC - 5 2002

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(2) **COMMISSIONERS COMMENTS & QUESTIONS:**

(3) **ADDENDUM ITEM(S):**

ITEM A: 50 – 8th Street. Letter from Christopher Moscone, agent for Foster Media, Appellant, requesting rehearing of Appeal No(s). 02-030, Foster Media vs. ZA, decided June 19, 2002. Upon motion by Vice President McInerney, the Board voted 2-3 (Commissioner Cullum, Commissioner Saunders & Commissioner El Qadah dissented) to uphold the subject determination. Four votes being necessary to overturn any departmental action, the motion passed and the subject determination was upheld. Determination: that the subject Building Permit Application for a general advertising sign is disapproved because the subject property is visible from, and located within 200 feet of the Market Street Special Sign District.

ITEM B: Taxicab medallion no(s). 129. Letter from John Feldmann III, Attorney for David Adams, Appellant, requesting rehearing of Appeal No(s). 02-020, Adams vs. Taxi Commission, decided June 12, 2002. Upon motion by Commissioner Cullum, the Board voted 3-2 (President Chin & Commissioner El Qadah dissented) to dismiss the case for lack of subject matter jurisdiction.

ITEM C: 645 Capitol Avenue. Letter from Raymond Wu, Requestor/Permit Holder, asking that the Board take jurisdiction over Building Permit Application No(s). 2002/10/08/7967 for the purpose of filing a penalty appeal.

Date Permit Issued:	October 2, 2002
Last Day to Appeal:	October 17, 2002
Jurisdiction Request Received:	October 28, 2002

(3) **ADDENDUM ITEMS (CONTINUED):**

ITEM D: 2538 – 33rd Avenue. Letter from Bonnie Trembath, Requestor, asking that the Board take jurisdiction over Building Permit Application No(s). 2002/10/15/8960. Permit Holder(s): Todd & Lisa Ng. Project: basement remodel – 1 bedroom, 1 family room and 2 bathrooms.

Date Permit Issued:	October 15, 2002
Last Day to Appeal:	October 30, 2002
Jurisdiction Request Received:	November 5, 2002

ITEM E: 1479 – 3rd Avenue. Letter from Larry Badiner, Zoning Administrator, requesting rehearing of Appeal 01-196, Wydler vs. ZA, decided Jan. 30, 2002. Upon motion by Vice President McInerney, the Board voted 4-0-1 (Commissioner Saunders absent) to overrule the subject determination and to adopt the findings submitted by the appellant's attorney. Appellant: Aton Wydler. Determination: that use of the subject property as a 4-unit residential building is not permitted under the Planning Code, and is not considered to be a legal non-conforming use under Planning Code Sections 180 through 185.

(4) **CONSENT ITEMS (DBI PENALTY):** With the consent of the Department of Building Inspection, the Board will proceed to a vote without testimony to reduce the penalty (investigation fee) to two times the regular fee as provided for in the Building Code. Without consent the Board will take testimony and then decide the appeal.

(4A) **APPEAL NO. 02-091**

ROBERT HINDI, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[120 Elsie Street.
[Appeal for refund of penalty imposed on
[May 29, 2002, for work done without a permit.
[APPLICATION NO. 2002/03/19/1736.
[FOR HEARING TODAY.

(5) **APPEAL NO. 02-150**

JIMMY CHU, Appellant(s)
vs.

ZONING ADMINISTRATOR, Respondent

[1551 Taraval Street.
[Appealing a Permit Suspension Request dated
[July 23, 2002, addressed to Dept. of Building
[Inspection Director Frank Chiu, requesting that
[Building Permit Application No(s). 9903316S be
[suspended for the reason that proper
[neighborhood notification under Planning Code
[§ 312 was omitted in error.
[FOR HEARING TODAY.
[NOTE: PER BOARD MOTION ON NOV. 20,
[2002, THIS MATTER IS NOT TO BE CALLED
[PRIOR TO 6 PM.

(6) **APPEAL NO. 02-017**

TEODORA MONTOYA, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. DISAPPROVAL

[951 Naples Street.
[Appealing denial on February 4, 2002, of [Permit to Alter a Building (legalize existing in-[law apartment in basement).
[APPLICATION NO. 2001/10/10/0331.
[PUBLIC HEARING HELD APRIL 3, 2002.
[FOR FURTHER CONSIDERATION TODAY.

(7) **APPEAL NO. 02-100**

CANADIAN AMERICAN OIL CO., Appellant(s)
vs.
ZONING ADNMISTRATOR, Respondent

[1868 Van Ness Avenue (Ben's Shell Station).
[Appealing a Cease & Desist Order dated [May 24, 2002, addressed to Equilon [Enterprises LLC & Canadian American Oil, that [the subject property is being used for operation [of an off-street parking facility without [benefit of a Conditional Use (CU) authorization, [in violation of Planning Code §'s 171 & [209.7(c).
[FOR HEARING TODAY.

(8) **APPEAL NO. 02-101**

KAREN WONG, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING COMMISSION DISAPPROVAL
§ 14 PARTIES: Not Applicable.

[335 Country Club Drive.
[Appealing the denial on June 11, 2002, of Site [Permit to Alter a Building (2nd floor addition).
[APPLICATION NO. 2001/08/21/6532S.
[FOR HEARING TODAY.

(9) **APPEAL NO. 02-103**

JOHN TILTON, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[1069 Pennsylvania Avenue.
[Appealing a Permit Suspension Request dated [May 30, 2002, addressed to Dept. of Building [Inspection Director Frank Chiu, requesting that [Building Permit Application No(s). [2000/03/01/3133 be suspended for the reason [that the permit was issued over the counter in [error, in violation of Planning Code § 608.5.
[FOR HEARING TODAY.

(10) **APPEAL NO. 02-104**

WILLIAM GREGORY
& RICHARD INGRAHAM, Appellant(s)
vs.
DEPT. OF PUBLIC WORKS, Respondent

[138 Laidley Street.
[Protesting the issuance on June 1, 2002, to
[Donna Peck & Michael Daly, Permit to Plant
[Two (2) Trees.
[PERMIT NO(S). 45499.
[FOR HEARING TODAY.

ITEMS (11A), (11B), (11C) & (11D) SHALL BE HEARD TOGETHER:

(11A) **APPEAL NO. 02-113**

ELIZABETH
& JOHN MILLER, & LYNN HALL, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[166 Yerba Buena Avenue.
[Protesting the issuance on June 13, 2002, to
[Michael Acubado, Site Permit to Erect a
[Building (two-story single family dwelling with
[2,679sf of ground floor area).
[APPLICATION NO. 2001/07/24/4356S.
[FOR HEARING TODAY.

(11B) **APPEAL NO. 02-114**

ELIZABETH
& JOHN MILLER, & LYNN HALL, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[168 Yerba Buena Avenue.
[Protesting the issuance on June 13, 2002, to
[Michael Acubado, Site Permit to Erect a
[Building (two-story single family dwelling with
[2,990sf of ground floor area).
[APPLICATION NO. 2001/07/24/4359S.
[FOR HEARING TODAY.

(11C) **APPEAL NO. 02-115**

VINCENT HOGAN, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[166 Yerba Buena Avenue.
[Protesting the issuance on June 13, 2002, to
[Michael Acubado, Site Permit to Erect a
[Building (two-story single family dwelling with
[2,679sf of ground floor area).
[APPLICATION NO. 2001/07/24/4356S.
[FOR HEARING TODAY.

(11D) **APPEAL NO. 02-116**

VINCENT HOGAN, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[168 Yerba Buena Avenue.
[Protesting the issuance on June 13, 2002, to [Michael Acubado, Site Permit to Erect a [Building (two-story single family dwelling with [2,990sf of ground floor area).
[APPLICATION NO. 2001/07/24/4359S.
[FOR HEARING TODAY.

(12) **APPEAL NO. 02-118**

DAVID LEE, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[368 Vallejo Street.
[Protesting the issuance on June 17, 2002, to [Suzanna Dulkinys, Permit to Alter a Building [(renovate kitchen and toilet room at main level, [renovate bedroom to include bathroom, enclose [part of deck for ½ bath, and replace wall [furnaces with direct vent.
[APPLICATION NO. 2002/06/17/9197.
[FOR HEARING TODAY.

(13) **APPEAL NO. 02-195**

MICHAEL J. GUGLIELMINO, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent

[2448 Larkin Street.
[Protesting the issuance on September 19, [2002, to Primecore, Permit to Alter a Building [(renewal of Building Permit Application No(s). [99257797S, 2000/04/24/7982S1, & [2000/04/24/7982S2).
[APPLICATION NO. 2002/09/19/6954.
[FOR HEARING TODAY.

ADJOURNMENT.

Note: Each item on this agenda may include the following documents:

1) Appellant's Preliminary Statement of Appeal and Brief; 2) Respondent's or Permit holder's Response Brief; 3) Appellant's Reply; 4) Department decision, order, permit, determination, resolution, or Notice of Violation; and 5) Correspondence of public and parties.

These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter. Please call 575-6880 if you have any questions concerning this agenda.

Date posted: November 26, 2002

MEMBERS OF THE BOARD OF APPEALS

ARNOLD Y.K. CHIN	PRESIDENT
KATHLEEN HARRINGTON	VICE PRESIDENT
SABRINA N. SAUNDERS	COMMISSIONER
DOUGLAS SHOEMAKER	COMMISSIONER
HISASHI B. SUGAYA	COMMISSIONER

CLAUDINE WOEBER - OFFICIAL COURT REPORTER 883-7561; THE PRESIDING OFFICER WILL CALL A RECESS AT 6:30 P.M. & WHENEVER NECESSARY FOR THE CONVENIENCE OF THE COURT REPORTER.

PROCEDURE AT HEARINGS

The order of presentation of an appeal shall be as follows: In the case of appeal of denials, revocations and suspensions the representatives of the department, board, commission or person from whose order the appeal is taken shall speak first and shall be allowed seven minutes for their presentation and three minutes for rebuttal.

The appellant whose permit has been denied, revoked or suspended shall be allowed seven minutes for oral argument and three minutes for rebuttal.

In the case of protest appeals, the protestor shall speak first and shall be allowed seven minutes to present oral argument and three minutes for rebuttal, and the permit holder shall be allowed seven minutes to present oral argument and three minutes for rebuttal. The Board may request a departmental response at its own discretion.

Other persons desiring to speak before the Board on an appeal may speak once for up to three minutes.

SPECIAL NOTES

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Briefs are limited to twelve pages, excluding exhibits, which should be tabbed for easy reference.

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regarding a calendared item to the Board office. Comments received before noon on the day of the hearing will be made a part of the official record and will be brought to the attention of the Board at the public hearing. For complete distribution to all Commissioners of the Board, necessary staff and case files, submit an original and ten copies.

Pursuant to Government Code Section 65009, if you challenge, in court, the approval of a variance or development permit, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Board of Appeals at, or prior to, the public hearing.

Calendared items are sometimes withdrawn or rescheduled to a later date prior to hearing, or are taken out of order to accommodate special needs. The Board urges all parties to be present in the hearing room from 5:00 p.m. so that everyone has an opportunity to participate in the relevant public hearing when it is called.

PROHIBITION OF SOUND-PRODUCING ELECTRONIC DEVICES

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ACCESSIBILITY INFORMATION

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KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

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Donna_Hall@ci.sf.ca.us. Copies of the Sunshine Ordinance can be obtained from the Clerk of the Sunshine Task Force, the San Francisco Public Library, and on the City's website at www.ci.sf.ca.us/bdsupvrs/sunshine.

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Video tapes of selected meetings may be obtained from Citywatch, Channel 26. Please telephone 554-4188 for more information.

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BOARD OF APPEALS
CITY & COUNTY OF SAN FRANCISCO
Robert H. Feldman, Executive Secretary
1660 Mission Street, Room 3036
San Francisco, California 94103
(415) 575-6880

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

REGULAR MEETING - WEDNESDAY, DECEMBER 11, 2002

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

(2) **COMMISSIONERS COMMENTS & QUESTIONS:**

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(3) **ADDENDUM ITEMS:**

ITEM A: 2518 Union Street. Letter from David Cincotta, attorney for Marc & Lisa Cabi, Appellants, requesting rehearing of Appeal No(s). 02-050, Cabi vs. DBI, PCD, decided June 5, 2002. Upon motion by Vice President McInerney, the Board voted 4-1 (President Chin dissented) to uphold the procedural denial (modification) by the Planning Commission, with conditions as stated into the record by Vice President McInerney, and with findings to be adopted by the Board on June 12, 2002. Findings were adopted June 12, 2002.

ITEM B: 2515-2519 Post Street. Letter from Tina Wollenberger & Rafael Calderon, Requestors, asking that the Board take jurisdiction over Building Permit Application No(s). 2002/03/29/2665. Permit Holder(s): Victor Ume-Ukeje. Project: renovation of each unit, upgrade of bath and kitchen, finishes, lighting, no change to building footprint, and new garage.

Date Permit Issued:	March 29, 2002
Last Day to Appeal:	April 15, 2002
Date Jurisdiction Request Received:	Nov. 22, 2002

(4) **CONSENT ITEM (POLICE REVOCATION):** With the consent of the Police Department, the Board will proceed to a vote without testimony to overrule the revocation of the subject permit(s) with the condition that the appellants pay all appropriate permit fees. Without consent the Board will take testimony and then decide the appeal.

(4) **APPEAL NO. 02-184**

MINEY LLC dba "CURVE BAR & RESTAURANT", Appellant(s)
vs.
POLICE DEPARTMENT, Respondent

[747 – 3rd Street.
[Appealing the revocation on August 28, 2002, [of Place of Entertainment/Dance Hall Keeper [Permit due to non-payment of fees.
[ACCOUNT NO. 1155.
[FOR HEARING TODAY.

(5) **APPEAL NO. 02-118**

DAVID LEE, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[368 Vallejo Street.
[Protesting the issuance on June 17, 2002, to [Suzanna Dulkinys, Permit to Alter a Building [(renovate kitchen and toilet room at main level, [renovate bedroom to include bathroom, enclose [part of deck for ½ bath, and replace wall [furnaces with direct vent.
[APPLICATION NO. 2002/06/17/9197.
[FOR HEARING TODAY.

(6) **APPEAL NO. 02-123**

HARRY ANDREWS, Appellant(s)
vs.
POLICE DEPARTMENT, Respondent

[20 Cosmo Place.
[Protesting the issuance on June 26, 2002, to [Tim Dale dba "Le Colonial SF Restaurant LLC," [Place of Entertainment Permit.
[PERMIT NO. 108548.
[FOR HEARING TODAY.

(7) **APPEAL NO. 02-124**

JOHN McGLYNN, Appellant(s)
vs.
DEPT. OF PUBLIC WORKS, Respondent

[358 Elizabeth Street.
[Appealing the denial on June 28, 2002, of [Permit to Remove & Replace One Tree.
[ORDER NO. 173,603.
[FOR HEARING TODAY.

(8) **APPEAL NO. 02-130**

PAUL LANGLEY
& SCOTT PETERSON
dba "HARVEY'S", Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[1582 Folsom Street.
[Appealing a determination dated July 5, 2002, [which recommends that the Police Department [disapprove the Place of Entertainment permit [application for the subject property for the [reason that Planning Code § 817.37 prohibits [new nighttime entertainment uses in the SLR [zoning district, and because neither Planning [nor Police Department records indicate that a [Place of Entertainment permit was ever [authorized for the subject property.
[FOR HEARING TODAY.

(9) **APPEAL NO. 02-132**

PING KWANG LEUNG dba
"NEW SANG SANG MARKET", Appellant(s)
vs.

DEPT. OF PUBLIC HEALTH, Respondent

[1145 Stockton Street.
[Appealing the suspension on July 17, 2002, of a [Permit to Operate for the "New Sang Sang [Market" for the reason that various Health Code [violations were not corrected within the 30-day [correction period.
[FOR HEARING TODAY.

(10) **APPEAL NO. 02-133**

TIMOTHY HARVEY, Appellant(s)
vs.

DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[245 Pope Street.
[Protesting the issuance on July 10, 2002, to [Veronica Zermeno, Permit to Erect a Building [(one-story garage with 500sf of ground floor [area).
[APPLICATION NO. 2002/07/10/1010.
[FOR HEARING TODAY.

(11) **APPEAL NO. 02-150**

JIMMY CHU, Appellant(s)
vs.

ZONING ADMINISTRATOR, Respondent

[1551 Taraval Street.
[Appealing a Permit Suspension Request dated [July 23, 2002, addressed to Dept. of Building [Inspection Director Frank Chiu, requesting that [Building Permit Application No(s). 9903316S be [suspended for the reason that proper [neighborhood notification under Planning Code [§ 312 was omitted in error.
[FOR HEARING TODAY.
[NOTE: PER BOARD MOTION ON NOV. 20, [2002, THIS MATTER IS NOT TO BE CALLED [PRIOR TO 6 PM.

ADJOURNMENT.

Note: Each item on this agenda may include the following documents:

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These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter. Please call 575-6880 if you have any questions concerning this agenda.

Date posted: Dec. 5, 2002

MEMBERS OF THE BOARD OF APPEALS

ARNOLD Y.K. CHIN	PRESIDENT
KATHLEEN HARRINGTON	VICE PRESIDENT
SABRINA N. SAUNDERS	COMMISSIONER
DOUGLAS SHOEMAKER	COMMISSIONER
HISASHI B. SUGAYA	COMMISSIONER

CLAUDINE WOEBER - OFFICIAL COURT REPORTER 883-7561; THE PRESIDING OFFICER WILL CALL A RECESS AT 6:30 P.M. & WHENEVER NECESSARY FOR THE CONVENIENCE OF THE COURT REPORTER.

PROCEDURE AT HEARINGS

The order of presentation of an appeal shall be as follows: In the case of appeal of denials, revocations and suspensions the representatives of the department, board, commission or person from whose order the appeal is taken shall speak first and shall be allowed seven minutes for their presentation and three minutes for rebuttal.

The appellant whose permit has been denied, revoked or suspended shall be allowed seven minutes for oral argument and three minutes for rebuttal.

In the case of protest appeals, the protestor shall speak first and shall be allowed seven minutes to present oral argument and three minutes for rebuttal, and the permit holder shall be allowed seven minutes to present oral argument and three minutes for rebuttal. The Board may request a departmental response at its own discretion.

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES - WEDNESDAY, DECEMBER 11, 2002

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

Present: President Arnold Y. K. Chin, Vice President Kathleen Harrington, Commissioner Sabrina Saunders, Commissioner Douglas Shoemaker and Commissioner Hisashi Sugaya.

Judith Boyajian, Deputy City Attorney for the City Attorney (DCA); Laurence Badiner, Zoning Administrator, Planning Department; Laurence Kornfield, Chief Building Inspector, DBI; and Robert Feldman, Executive Secretary for the Board of Appeals; Official Court Reporter, Claudine Woeber.

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

SPEAKERS: None.

(2) **COMMISSIONERS COMMENTS & QUESTIONS:**

SPEAKERS: None.

(3) **ADDENDUM ITEMS:**

ITEM A: 2518 Union Street. Letter from David Cincotta, attorney for Marc & Lisa Cabi, Appellants, requesting rehearing of Appeal No(s). 02-050, Cabi vs. DBI, PCD, decided June 5, 2002. Upon motion by Vice President McInerney, the Board voted 4-1 (President Chin dissented) to uphold the procedural denial (modification) by the Planning Commission, with conditions as stated into the record by Vice President McInerney, and with findings to be adopted by the Board on June 12, 2002. Findings were adopted June 12, 2002.

ACTION: Upon motion by Commissioner Saunders, the Board voted 4-1 (Commissioner Shoemaker dissented) to deny the rehearing request.

SPEAKERS: David Cincotta for the Appellants asked the Board to grant a rehearing so that the decision of June 5, 2002 can be clarified and because one commissioner had a conflict of interest. Robert McCarthy, representing the Goldmans and speaking also for the other neighbors who are represented by Lucian Blazej, said the hearing was not contentious and there is solidarity in the neighborhood. The neighbors support the Planning Commission and Board decisions and he felt no clarification is needed.

ITEM B: 2515-2519 Post Street. Letter from Tina Wollenberger & Rafael Calderon, Requestors, asking that the Board take jurisdiction over Building Permit Application No(s). 2002/03/29/2665. Permit Holder(s): Victor Ume-Ukeje. Project: renovation of each unit, upgrade of bath and kitchen, finishes, lighting, no change to building footprint, and new garage.

Date Permit Issued:	March 29, 2002
Last Day to Appeal:	April 15, 2002
Date Jurisdiction Request Received:	Nov. 22, 2002

ACTION: Upon motion by Commissioner Shoemaker, the Board voted 4-1 (Vice President Harrington dissented) to grant the jurisdiction request.

SPEAKERS: Tina Wollenberger, Requestor and tenant said that two of the three units have been renovated and she feels there is no need for her to have to vacate while the third unit is done. She asked the Board to allow her to file an appeal. Suzette Torres, for the Permit Holder cited the court decision which says the statute of limitations can't be waived unless the City made an error in giving notice of its action and no such error is present here and the tenant had actual notice in time and didn't appeal.

(4) **CONSENT ITEM (POLICE REVOCATION):** With the consent of the Police Department, the Board will proceed to a vote without testimony to overrule the revocation of the subject permit(s) with the condition that the appellants pay all appropriate permit fees. Without consent the Board will take testimony and then decide the appeal.

(4) **APPEAL NO. 02-184**

MINEY LLC dba
"CURVE BAR & RESTAURANT", Appellant(s)
vs.

POLICE DEPARTMENT, Respondent

[747 – 3rd Street.
[Appealing the revocation on August 28, 2002,
[of Place of Entertainment/Dance Hall Keeper
[Permit due to non-payment of fees.
[ACCOUNT NO. 1155.
[FOR HEARING TODAY.

ACTION: Matter withdrawn by the appellant.

(5) **APPEAL NO. 02-118**

DAVID LEE, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[368 Vallejo Street.
[Protesting the issuance on June 17, 2002, to
[Suzanna Dulkinys, Permit to Alter a Building
[(renovate kitchen and toilet room at main level,
[renovate bedroom to include bathroom, enclose
[part of deck for ½ bath, and replace wall
[furnaces with direct vent.
[APPLICATION NO. 2002/06/17/9197.
[FOR HEARING TODAY.

ACTION: Upon motion by Vice President Harrington, the Board voted 5-0 to uphold the subject permit with adoption of revised plans dated Dec. 10, 2002, and with a recommendation that the parties work together to resolve their differences.

SPEAKERS: David Lee, appellant, said the sole issue for him in protesting the permit was the effect of the addition on the stairway used by the tenants of his six-unit apartment house next door to the subject property. The stair leads to the garage and a utility area. He said he has made an offer to compromise but the Permit Holder won't agree to it. Michael Garavaglia, architect for the Appellant, explained how the proposed stairway allows insufficient headroom for his client's building but there are two options that could be used that wouldn't impact his client. David Cincotta, attorney for the Permit Holder explained the history of the project and the appellant's objection to it. He said the addition is very small and that any modification would make it untenable and pointless.

No public comment for either side.

Laurence Kornfield, CBI, DBI, said he has visited the site and he went over the Code requirements for access and egress from apartment houses like the Appellant's, which doesn't meet present standards.

(6) **APPEAL NO. 02-123**

HARRY ANDREWS, Appellant(s)
vs.
POLICE DEPARTMENT, Respondent

[20 Cosmo Place.
[Protesting the issuance on June 26, 2002, to
[Tim Dale dba "Le Colonial SF Restaurant LLC,"
[Place of Entertainment Permit.
[PERMIT NO. 108548.
[FOR HEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted 4-0 to recuse Commissioner Sugaya. Afterwards, upon motion by Vice President Harrington, the Board voted 4-0-1 (Commissioner Sugaya recused) to uphold the subject permit, with the 7 conditions as agreed to by the parties, striking the original #7, and with a finding that the permit meets § 2900 of the Police Code.

SPEAKERS: William Coggan, S.F.P.D., OFFERED TO CALL Officer Anzore the Noise Officer who made the sound surveys of the subject restaurant. He went over the procedural history of the subject permit which had been the subject of two previous appeals to the Board. Andrew Junius, attorney for the Permit Holder, summarized his brief and explained his view of the Board's jurisdiction in this appeal of the issued place of entertainment permit. He said the noise problem is generated by the use of the parking lot and not by his client's business and that the conditions imposed in June were acceptable for the most part and he explained the problems with conditions 4, 6 and 7. Brett Gladstone, attorney for the Appellant said the Board has de novo jurisdiction on the matter and that the unenclosed dining area allowed loud music to disturb occupants of his client's hotel as well as of residents in the area and the smoking on the balcony was a problem also. The area was enclosed when the facility was operated by Trader Vic and there were no problems with noise and smoke. He asked for reasonable adjustments to the conditions accompanying the permit to protect nearby occupants of the hotel and of apartment houses. He observed that the Board adopted no findings to support its last decision and that a

Commissioner who participated in the decision had a conflict of interest and shouldn't have sat for the case. Justine de Alba, manager of the restaurant, said she was operating under the six conditions imposed by the S.F.P.D. and the Board for the past six months and said her customers are not wild as described by the neighbors. Her music is only light jazz and is not disruptive.

Public Comment for Appellant: Annette Carroll said the restaurant has been extremely noisy since it opened and she doesn't believe music will be limited to light jazz. Ian Ayers said he resides at 666 Post Street and he feels the cabaret should be in the front so as to minimize its impact on the neighbors. He said that there are thousands of people within earshot of the facility and that they shouldn't be subject to such noise at night. Raymond Glover II lives at 640 Post Street and said the noise has gotten louder on his seventh floor even with his window closed. Jason Dorn said he owns a residence in front of the restaurant and he operates a club and the problem is that the jazz during the happy hour is not the problem but the patrons in the parking lot and the later music is. Sean Sornborge said he lives at 660 Post and the patrons of the restaurant are a hazard and threaten young women and elderly in the area at night. He is afraid for them, disgusted and afraid himself at night because of the vomiting and behavior of drunk patrons and that the street parking in the area is impossible for neighborhood residents because of the restaurant's patrons. Alicia Zaladova suffers from the noise and smoke. Otis Shellenberger lives in an apartment on the west side and hears much noise now and can't imagine continuing to hear it without more conditions imposed to ameliorate the situation. Barbara Vogler said she is the general manager of the Andrews Hotel and that she has worked there for the past four years and has received innumerable complaints from their guests about the noise at night from the balcony and the back of the restaurant. Abigale Munn, manager of a nearby building said that she lives on the back alley and patrons of restaurant look into her window. If the permit is granted, the disruptive noise will become louder. Jenny Stein said her bedroom and kitchen are above the open patio and the real problem is that the restaurant is surrounded by a residential area with many hotels and apartments and the noise already has a significant impact, even on her 14th floor. Tom Johnson said he agrees with all those who already spoke. Ray Hori of 640 Post Street asked the Board to deny the permit. Patricia Glasky agreed with all speakers. Bridget Hennessy of 666 Post said she must live with windows and curtains closed and she is still disturbed by the noise. Patricia Rinaldo said Trader Vic had been a good neighbor and was very considerate, but this owner has been a continuous problem for five years and none of the issues have been solved yet with the noise being loudest between 10:00 p.m. and 2:00 a.m. M. T. Boutin agrees with others and he suggested some solutions to curb the noise. David Overdorf of 647 Hyde said the Planning Code is clear and that this business is not suitable for the neighborhood under the Codes since it interferes with the peace of the area. Frederic Miller said the cabaret has operated illegally for six months without a permit. Robert Garcia representing an association said he feels the area is not suitable for a club. Rainer Neumann said he opposes the permit.

NO PUBLIC COMMENT FOR THE PERMIT HOLDER.

(7) **APPEAL NO. 02-124**

JOHN McGLYNN, Appellant(s)
vs.
DEPT. OF PUBLIC WORKS, Respondent

[358 Elizabeth Street.
[Appealing the denial on June 28, 2002, of [Permit to Remove & Replace One Tree. [ORDER NO. 173,603.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Saunders, the Board voted 5-0 to reschedule the matter to Jan. 15, 2003.

(8) **APPEAL NO. 02-130**

PAUL LANGLEY
& SCOTT PETERSON
dba "HARVEY'S", Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[1582 Folsom Street.
[Appealing a determination dated July 5, 2002, [which recommends that the Police Department [disapprove the Place of Entertainment permit [application for the subject property for the [reason that Planning Code § 817.37 prohibits [new nighttime entertainment uses in the SLR [zoning district, and because neither Planning [nor Police Department records indicate that a [Place of Entertainment permit was ever [authorized for the subject property.
[FOR HEARING TODAY.

ACTION: Upon motion by Vice President Harrington, the Board voted 5-0 to overrule the subject determination.

SPEAKERS: Lawrence Badiner, ZA, explained that he now feels his determination was in error and he has withdrawn it and that the best way to complete the matter was for the Board to overrule his determination.

(9) **APPEAL NO. 02-132**

PING KWANG LEUNG dba
"NEW SANG SANG MARKET", Appellant(s)
vs.
DEPT. OF PUBLIC HEALTH, Respondent

[1145 Stockton Street.
[Appealing the suspension on July 17, 2002, of a [Permit to Operate for the "New Sang Sang [Market" for the reason that various Health Code [violations were not corrected within the 30-day [correction period.
[FOR HEARING TODAY.

ACTION: Appeal withdrawn by the appellant.

SPEAKERS: None

(10) **APPEAL NO. 02-133**

TIMOTHY HARVEY, Appellant(s)
vs.

DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[245 Pope Street.
[Protesting the issuance on July 10, 2002, to [Veronica Zermeno, Permit to Erect a Building [(one-story garage with 500sf of ground floor [area).
[APPLICATION NO. 2002/07/10/1010.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Saunders, the Board voted 2-3 (President Chin, & Commissioners Shoemaker & Sugaya dissented) to reschedule the matter to Feb. 5, 2003 on condition that there be no more rescheduling. 3 votes being necessary to reschedule a case, the motion failed, and the matter was left on calendar. Afterwards, upon motion by Commissioner Shoemaker, the Board voted 5-0 to uphold the subject permit.

SPEAKERS: Clyde Jones said he represents the Appellant who is a fire fighter on duty. He said there was never a structure on the property and he described the easement and the trash on it that is a problem for the neighborhood. He read two letters into the record supporting Appellant's position. Aurora Garcia, sister of the Permit Holder said that they have tried for years to get a permit and that the original structure had fallen down while the family was on vacation. Larry Badiner, ZA, said that there had been a complaint about the property and it has been abated. He said no variance is necessary since the removal of the non-conforming structure was by an act of God and a replacement can be approved without a variance under the Planning Code. The 1948 aerial photo shows rear yard structure.

PUBLIC COMMENT FOR APPELLANT: Mike Jones spoke for himself and urged the Board to deny the permit. He said he doesn't believe the permit holder. He said the easement belongs to Caltrans who doesn't maintain it and probably never will. Jacqueline Zermeno, daughter of the Permit Holder, said her family only fixed their own cars and didn't conduct an auto repair business. She said they all have old big cars and the garage is never used to park them in.

(11) **APPEAL NO. 02-150**

JIMMY CHU, Appellant(s)
vs.

ZONING ADMINISTRATOR, Respondent

[1551 Taraval Street.
[Appealing a Permit Suspension Request dated [July 23, 2002, addressed to Dept. of Building [Inspection Director Frank Chiu, requesting that [Building Permit Application No(s). 9903316S be [suspended for the reason that proper [neighborhood notification under Planning Code [§ 312 was omitted in error.
[FOR HEARING TODAY.
[NOTE: PER BOARD MOTION ON NOV. 20, [2002, THIS MATTER IS NOT TO BE CALLED [PRIOR TO 6 PM.

ACTION: Upon motion by President Chin, the Board voted 5-0 to overrule the subject permit suspension request with adoption of the private settlement as agreed to by the appellant and the neighbors.

SPEAKERS: Lawrence Badiner announced that an agreement has been reached by the parties. David Silverman for the Appellant and Steven Williams for the neighbors explained the agreement to the Board. Matt Mitguard asked for an additional revision to the plans.

There being no further business President Chin adjourned the meeting at 9:38 p.m.

Arnold Y. K. Chin, President

Robert H. Feldman, Executive Secretary

Transcripts of these hearings can be obtained from Ms. Claudine Woeber, the Official Court Reporter, 506-0430

BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

REGULAR MEETING - WEDNESDAY, DECEMBER 18, 2002

SPECIAL START TIME OF 1:30 PM, CITY HALL, ROOM 416

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

(2) **COMMISSIONERS COMMENTS & QUESTIONS:**

DOCUMENTS DEPT.

DEC 16 2002

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(3) **ADDENDUM ITEMS:**

ITEM A: 1 Grand View Avenue. Letter from Sal Balistreri, requesting rehearing of Appeal No(s). V02-109, Balistreri vs. ZA, decided November 20, 2002. Upon motion by President Chin, the Board voted 5-0 to uphold the subject variance. Project: construction of a new single-family dwelling with 2 stories at the front located on Grand View Avenue and a total of 3 stories at the rear on Stanton Street. Variance Holder(s): Warner Schmalz. Subject Property Owner(s): Frank & Maureen Cafferkey.

ITEM B: Taxicab Medallion No(s). 981. Letter from Jim Gillespie, Agent for Vernon Lidell, requesting rehearing of Appeal No(s). 02-097, Lidell vs. Taxi, decided November 20, 2002. Upon motion by President Chin, the Board voted 5-0 to uphold the subject revocation.

ITEM C: 530 – 47th Avenue. Letter from Brett Horton, Appellant, requesting rehearing of Appeal No(s). 02-164 & 02-169, Horton vs., DBI, PDA, decided Nov. 20, 2002. Upon motion by Commissioner Saunders, the Board voted 5-0 to uphold both subject permits. Project: remodel downstairs family room, bath and laundry; remodel ground floor bedrooms and stairway to 2nd floor; add 2nd floor master bedroom, bath and closet; seismic, electrical and mechanical upgrades. Dry rot repair and foundation cap, new slab on grade, plumbing and electrical repair as required, all interior work only. Permit Holder(s): Ed Villhauer.

(3) **ADDENDUM ITEMS (CONTINUED):**

ITEM D: 888 Elizabeth Street. Letter from Lowell Buckner, Requestor/Permit Holder, asking that the Board take jurisdiction over Building Permit Application No(s). 2002/07/16/1531 for the purpose of filing a penalty appeal.

Date Permit Issued:	July 16, 2002
Last Day to Appeal:	July 31, 2002
Date Jurisdiction Request Received:	Dec. 3, 2002

(4) **APPEAL NO. V02-206**

LARRY RICHARDS, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[1301-1327 Polk Street.
[Protesting the granting on October 11, 2002, [to Mercy Housing Califronia c/o Jennifer Dolin, [Rear Yard, Usable Open Space & Dwelling [Unit Exposure Variance(s) (convert the [residential and tourist hotel rooms on the 2nd [through 5th floors of the existing building into [72 units of senior housing).
[VARIANCE CASE NO. 2002.0346V.
[FOR HEARING TODAY.

(5) **APPEAL NO. 01-154**

SAILING BILLBOARDS OUTDOOR MEDIA, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent

[60 Broadway.
[Appealing the revocation on August 22, 2001, [of Permit to Erect a Sign (single-faced, painted [wall, with a surface area of 950sf).
[APPLICATION NO. 9908729.
[FOR HEARING TODAY.

(6) **APPEAL NO. 02-107**

STEVEN LEE
dba "GLASKAT SUPPER CLUB", Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[520 – 4th Street.
[Appealing a determination dated March 19, [2002, addressed to Steven Lee, that the Police [Permit Application Zoning Referral for an [Extended Hours Premises Permit at the subject [property cannot be approved because such [approval would constitute an intensification of [the legal nonconforming use (nighttime [entertainment) in violation of Planning Code § [181(a), and because the prior Extended Hours [Premises Permits enjoyed at the subject [property were all voluntarily surrendered in [excess of 3 years ago, and Planning Code § [183 prohibits the reestablishment of [nonconforming uses that have been [discontinued for a continuous period of 3 years.
[JURISDICTION GRANTED MAY 29, 2002.
[FOR HEARING TODAY.

ITEMS (7A), (7B), (7C) & (7D) SHALL BE HEARD TOGETHER:

(7A) **APPEAL NO. 02-113**

ELIZABETH
& JOHN MILLER, & LYNN HALL, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[166 Yerba Buena Avenue.
[Protesting the issuance on June 13, 2002, to [Michael Acubado, Site Permit to Erect a [Building (two-story single family dwelling with [2,679sf of ground floor area).
[APPLICATION NO. 2001/07/24/4356S.
[FOR HEARING TODAY.

(7B) **APPEAL NO. 02-114**

ELIZABETH
& JOHN MILLER, & LYNN HALL, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[168 Yerba Buena Avenue.
[Protesting the issuance on June 13, 2002, to [Michael Acubado, Site Permit to Erect a [Building (two-story single family dwelling with [2,990sf of ground floor area).
[APPLICATION NO. 2001/07/24/4359S.
[FOR HEARING TODAY.

(7C) **APPEAL NO. 02-115**

VINCENT HOGAN, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[166 Yerba Buena Avenue.
[Protesting the issuance on June 13, 2002, to [Michael Acubado, Site Permit to Erect a [Building (two-story single family dwelling with [2,679sf of ground floor area).
[APPLICATION NO. 2001/07/24/4356S.
[FOR HEARING TODAY.

(7D) **APPEAL NO. 02-116**

VINCENT HOGAN, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[168 Yerba Buena Avenue.
[Protesting the issuance on June 13, 2002, to [Michael Acubado, Site Permit to Erect a [Building (two-story single family dwelling with [2,990sf of ground floor area).
[APPLICATION NO. 2001/07/24/4359S.
[FOR HEARING TODAY.

(8) **APPEAL NO. 02-125**

SIDNEY UNOBSKEY, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[2638 Baker Street.
[Protesting the issuance on July 2, 2002, to [James Newton, Permit to Alter a Building [(remove existing 2nd floor greenhouse and [replace with roof).
[APPLICATION NO. 2002/06/12/8790.
[FOR HEARING TODAY.

(9) **APPEAL NO. 02-136**

TOM TAYLOR, Appellant(s)
vs.

ZONING ADMINISTRATOR, Respondent

[451 Hayes Street.
[Appealing a determination dated July 10, 2002, [addressed to Tom Taylor, that the proposed [sheet metal flowers detailed in Building Permit [Application No(s). 2002/04/25/5019 would have [to have a vertical dimension of no greater than [2 feet 6 inches in order to qualify as a permitted [obstruction over the front setback under [Planning Code § 136.
[APPLICATION NO.
[FOR HEARING TODAY.

(10) **APPEAL NO. 02-137**

DAVID KNUDSEN, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[2010 Divisadero Street.
[Protesting the issuance on July 15, 2002, to [Saud Family Trust, Site Permit to Erect a [Building (one-story commercial retail building [with 1,100sf of ground floor area).
[APPLICATION NO. 2000/10/30/4397S.
[FOR HEARING TODAY.

(11) **APPEAL NO. V02-138**

LISA HONIG, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[322 Rutledge Street.
[Protesting the granting on July 17, 2002, to [Apparatus Architecture c/o Stuart Hills, Rear [Yard & Mass Reduction Variance(s) (add [approximately 47sf of useable floor area, plus [approximately 66sf of balcony space to the rear [of an existing single family dwelling).
[VARIANCE CASE NO. 2002.0377V.
[FOR HEARING TODAY.

(12) **APPEAL NO. 02-139**

THOMAS J. COATES, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[490 Avila Street.
[Appealing a determination dated July 11, 2002, [addressed to Joel Yodowitz at Ruben & Alter [LLP, that variance case no. 95.442V, granted [on October 10, 1995, which considered the [southeast property line to be the rear property [line, is considered to be accurate and [necessary for the work that was proposed.
[FOR HEARING TODAY.

(13) **APPEAL NO. 02-141**

MARC GOLDSMITH, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[1012 Divisadero Street.
[Protesting the issuance on July 15, 2002, to [Eric Schleelein & Flora Cheung, Permit to Erect [a Building (one-story garage with 270sf of [ground floor area).
[APPLICATION NO. 2002/01/25/7741.
[FOR HEARING TODAY.

ITEMS (14A) & (14B) & (14C) SHALL BE HEARD TOGETHER:

(14A) **APPEAL NO. 02-143**

MELINDA HALL, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[2311 – 19th Street.
[Protesting the issuance on July 19, 2002, to
[Michael Plotista, Permit to Demolish a Building
[(three-story, two-unit residential building with
[1000sf of ground floor area).
[APPLICATION NO. 2000/02/29/3108.
[FOR HEARING TODAY.

(14B) **APPEAL NO. 02-144**

MELINDA HALL, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[2311 – 19th Street.
[Protesting the issuance on July 19, 2002, to
[Michael Plotista, Site Permit to Erect a Building
[(three-story, two-unit building/townhouses with
[1600sf of ground floor area).
[APPLICATION NO. 2000/02/29/3109S.
[FOR HEARING TODAY.

(14C) **APPEAL NO. 02-145**

MELINDA HALL, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[705 Utah Street.
[Protesting the issuance on July 19, 2002, to
[Michael Plotista, Site Permit to Erect a Building
[(three-story, one-unit building/townhouse with
[1200sf of ground floor area).
[APPLICATION NO. 2000/02/17/2203.
[FOR HEARING TODAY.

(15) **APPEAL NO. 02-148**

IAN BERKE, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[2606/2610 Jackson Street.
[Protesting the issuance on July 30, 2002, to
[Mark Perry, Site Permit to Alter a Building (two
[adjacent residences with zero lot lines are to be
[joined into one residence).
[APPLICATION NO. 2001/12/24/5878S.
[FOR HEARING TODAY.

(16) **APPEAL NO. 02-149**

PEDRO MEREL, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[3873 – 3875 – 17th Street.
[Protesting the issuance on July 25, 2002, to [Andrew Goldfarb & Chris Nordquist, Site Permit [to Alter a Building (rear addition onto 3-story [residence).
[APPLICATION NO. 2001/06/22/2235S.
[FOR HEARING TODAY.

(17) **APPEAL NO. V02-154**

DONALD PERSKY, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[2540 Clay Street.
[Protesting the granting on August 1, 2002, to [Allan Levy, Rear Yard Variance (construct a [second floor deck and spiral stair that [encroach into the required rear yard).
[VARIANCE CASE NO. 2002.0331V.
[FOR HEARING TODAY.

(18) **APPEAL NO. 02-155**

JERRY & SANDRA PETERSON, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[372-374 Pennsylvania Ave.
[Appealing a Notice of Violation dated July 30, [2002, addressed to Jerry & Sandra Peterson [and Andrew Zacks, that the subject property is [being operated as a tourist motel without a [Conditional Use (CU) permit in violation of [Planning Code § 303; that the 3 dwelling units [on the subject property exceed the allowable [density in an RH-2 zoning district in violation of [Planning Code § 209.1; and that the basement [is being used as lodging for a tourist motel in [violation of Notice of Special Restrictions [(NSR) #F373820 & Planning Code § 174.
[FOR HEARING TODAY.

(19) **APPEAL NO. 02-157**

DEE ANN YABUSAKI, Appellant(s)
vs.

DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[155 Rivoli Street.
[Protesting the issuance on July 30, 2002, to
[Chris Husband, Permit to Alter a Building
[(expansion of habitable space into existing
[gabled roof attic, removal of part of roof and
[construction of new dormers and removal of
[part of roof and construction of a new flat roof
[and roof deck).
[APPLICATION NO. 2002/02/26/0108.
[FOR HEARING TODAY.

(20) **APPEAL NO. V02-163**

OPERA PLAZA
HOMEOWNERS ASSOCIATION, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[724-730 Van Ness Avenue.
[Protesting the granting on August 13, 2002, to
[724 Van Ness Associates LLC, Parking & Rear
[Yard Requirement Modifications, & Off-Street
[Freight Loading Variance (modification of the
[parking requirement to permit a reduction from
[141 to 51 independently accessible off-street
[parking spaces; modification of the rear yard
[requirement for a building located
[approximately 36 feet from the rear lot line
[where approximately 40 feet would be
[required; and elimination of the one off-street
[freight loading space requirement by providing
[two service vehicle spaces).
[VARIANCE CASE NO. 2001.0535CEKV.
[FOR HEARING TODAY.

(21) **APPEAL NO. 02-167**

EVELYN KAY ELLIOTT, Appellant(s)
vs.

DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[40-48 Wilmot Street.
[Protesting the issuance on August 9, 2002, to
[Thomas & Tracy Iseler, Site Permit to Alter a
[Building (interior renovation at all levels, mino
[vertical addition, removal of illegal unit to
[become 2 units total, and new rear stairs).
[APPLICATION NO. 2001/08/13/5931S.
[FOR HEARING TODAY.

(22) **APPEAL NO. 02-168**

PHILIP B. HOROWITZ, Appellant(s)
vs.
DEPT. OF PUBLIC WORKS, Respondent

[157 Fillmore Street.
[Protesting the issuance on August 12, 2002, to
[Francisco C. Lovato dba "Health Wise for Pets",
[Display Merchandise Permit.
[ORDER NO. 173,671.
[FOR HEARING TODAY.

(23) **APPEAL NO. 02-170**

HANSON LEE, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[2670 – 47th Avenue.
[Protesting the issuance on August 21, 2002, to
[Alfred Lee, Site Permit to Alter a Building (two
[story rear addition).
[APPLICATION NO. 2002/01/09/6578S.
[FOR HEARING TODAY.

ADJOURNMENT.

Note: Each item on this agenda may include the following documents:

1) Appellant's Preliminary Statement of Appeal and Brief; 2) Respondent's or Permit holder's Response Brief; 3) Appellant's Reply; 4) Department decision, order, permit, determination, resolution, or Notice of Violation; and 5) Correspondence of public and parties.

These items are available for review at the Board's office, 1660 Mission Street, Room 3036, front counter. Please call 575-6880 if you have any questions concerning this agenda.

Date posted: December 12, 2002

MEMBERS OF THE BOARD OF APPEALS

ARNOLD Y.K. CHIN	PRESIDENT
KATHLEEN HARRINGTON	VICE PRESIDENT
SABRINA N. SAUNDERS	COMMISSIONER
DOUGLAS SHOEMAKER	COMMISSIONER
HISASHI B. SUGAYA	COMMISSIONER

CLAUDINE WOEBER - OFFICIAL COURT REPORTER 883-7561; THE PRESIDING OFFICER WILL CALL A RECESS AT 6:30 P.M. & WHENEVER NECESSARY FOR THE CONVENIENCE OF THE COURT REPORTER.

PROCEDURE AT HEARINGS

The order of presentation of an appeal shall be as follows: In the case of appeal of denials, revocations and suspensions the representatives of the department, board, commission or person from whose order the appeal is taken shall speak first and shall be allowed seven minutes for their presentation and three minutes for rebuttal.

The appellant whose permit has been denied, revoked or suspended shall be allowed seven minutes for oral argument and three minutes for rebuttal.

In the case of protest appeals, the protestor shall speak first and shall be allowed seven minutes to present oral argument and three minutes for rebuttal, and the permit holder shall be allowed seven minutes to present oral argument and three minutes for rebuttal. The Board may request a departmental response at its own discretion.

Other persons desiring to speak before the Board on an appeal may speak once for up to three minutes.

SPECIAL NOTES

Mailed notices of public hearings on appeals are sent to all parties at least five days prior to the date of hearing. In the event that a matter is continued to a specific date by the presiding officer and announced to the parties in the hearing room, no additional mailed notice will be sent. Please call the Board office at 575-6880 for scheduling or other information during regular business hours, or visit our website at www.sfgov.org/boa

Briefs are limited to twelve pages, excluding exhibits, which should be tabbed for easy reference.

The complete Rules of the Board are available for review at the Board office.

Material submitted by the public for Board review prior to a scheduled hearing before the Board, should be addressed to the Board President, and be received at the Board office, 1660 Mission Street, Room 3036, no later than 4:00 p.m. the Thursday (six days) prior to the scheduled public hearing. Persons unable to attend the scheduled public hearing may submit written comments

regarding a calendared item to the Board office. Comments received before noon on the day of the hearing will be made a part of the official record and will be brought to the attention of the Board at the public hearing. For complete distribution to all Commissioners of the Board, necessary staff and case files, submit an original and ten copies.

Pursuant to Government Code § 65009, if you challenge, in court, the approval of a variance or development permit, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Board of Appeals at, or prior to, the public hearing.

Calendared items are sometimes withdrawn or rescheduled to a later date prior to hearing, or are taken out of order to accommodate special needs. The Board urges all parties to be present in the hearing room from 5:00 p.m. so that everyone has an opportunity to participate in the relevant public hearing when it is called.

PROHIBITION OF SOUND-PRODUCING ELECTRONIC DEVICES

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

ACCESSIBILITY INFORMATION

American sign language interpreters and/or sound enhancement system will be available upon request by contacting Catherine Johnson at 575-6882 at least 72 hours prior to the hearing. Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call the accessibility hotline at 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals. The closest accessible BART station is the Civic Center station located at the intersection of Market, Hyde and Grove Streets. Accessible curbside parking has been designated at points along McAllister Street. Accessible MUNI lines serving City Hall are the 42 Downtown Loop, 9 San Bruno and 71 Haight/Noriega and the F line. Accessible MUNI Metro lines are the J, K, L, M, and N. For more information regarding MUNI accessible services, call (415) 923-6142.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force: Donna Hall, Sunshine Ordinance Task Force, City Hall, Room 409, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102-4683, Phone (415) 554-7724, fax (415) 554-7854, and e-mail

Donna_Hall@ci.sf.ca.us. Copies of the Sunshine Ordinance can be obtained from the Clerk of the Sunshine Task Force, the San Francisco Public Library, and on the City's website at www.ci.sf.ca.us/bdsupvrs/sunshine.

LOBBYING ACTIVITY

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Campaign and Governmental Conduct Code § 2.100] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415) 581-2300; fax (415) 581-2317; web site www.sfgov.org/ethics.

TAPES & TRANSCRIPTS OF MEETINGS & HEARINGS

Transcripts of hearings may be obtained from the Official Court Reporter, Claudine Woeber, at 883-7561.

Audiotapes of meetings may be obtained from the Board office. Please telephone 575-6880 for information.

Note: Each item on this agenda may include the following documents:

1. Appellant's Preliminary Statement of Appeal and Brief.
2. Respondent's or Permit holder's Response Brief.
3. Appellant's Reply.
4. Department decision, order, permit, determination, resolution, or Notice of Violation.
5. Correspondence of public and parties.

These items are available for review at the Board's office, 1660 Mission St., Rm. 3036, front counter.

BOARD OF APPEALS
CITY & COUNTY OF SAN FRANCISCO
Robert H. Feldman, Executive Secretary
1660 Mission Street, Room 3036
San Francisco, California 94103
(415) 575-6880

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BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES - WEDNESDAY, DECEMBER 18, 2002

SPECIAL START TIME OF 1:30 PM, CITY HALL, ROOM 416

Present: President Arnold Y. K. Chin, Vice President Kathleen Harrington, Commissioner Sabrina Saunders, Commissioner Douglas Shoemaker and Commissioner Hisashi Sugaya.

Judith Boyajian, Deputy City Attorney for the City Attorney (DCA); Lawrence Badiner, Zoning Administrator, Planning Department; Laurence Kornfield, Chief Building Inspector, DBI; and Robert Feldman, Executive Secretary for the Board of Appeals; Official Court Reporter, Claudine Woeber.

(1) **PUBLIC COMMENT:** At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

SPEAKERS: Patricia Vaughey asked the Commissioners to be aware of whom the consultants actually represent when they read the briefs. Mark Gruberg of the United Taxi Workers explained the licensing process for medallions by the Taxi Commission and the long waiting list.

DOCUMENTS DEPT.

FEB 19 2003

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(2) **COMMISSIONERS COMMENTS & QUESTIONS:**

SPEAKERS: None

(3) **ADDENDUM ITEMS:**

ITEM A: 1 Grand View Avenue. Letter from Sal Balistreri, requesting rehearing of Appeal No(s). V02-109, Balistreri vs. ZA, decided November 20, 2002. Upon motion by President Chin, the Board voted 5-0 to uphold the subject variance. Project: construction of a new single-family dwelling with 2 stories at the front located on Grand View Avenue and a total of 3 stories at the rear on Stanton Street. Variance Holder(s): Warner Schmalz. Subject Property Owner(s): Frank & Maureen Cafferkey.

ACTION: Upon motion by Vice President Harrington, the Board voted 5-0 to deny the request for rehearing.

SPEAKERS: Sal Balistereri, Requestor, asked the Board to grant his request for a rehearing because he had new evidence to present. Warner Schmaltz, architect for the owners, asked the Board to deny the request for lack of new evidence.

ITEM B: Taxicab Medallion No(s). 981. Letter from Jim Gillespie, Agent for Appellant Vernon Lidell, requesting rehearing of Appeal No(s). 02-097 Lidell vs. Taxi Commission, decided November 20, 2002. Upon motion by President Chin, the Board voted 5-0 to uphold the subject revocation.

ACTION: Upon motion by Vice President Harrington, the Board voted 4-1 (Commissioner Sugaya dissented) to grant the rehearing and for the rehearing to be scheduled for Jan. 29, 2003.

SPEAKERS: Jim Gillespie, General Manager of the Desoto Cab Company representing the Appellant who did not appear, asked the Board to grant a rehearing as the Appellant was unable to appear at the first hearing. Naomi Little, Executive Director of the Taxi Commission asked the Board to deny the request since the Appellant is in Ohio and can't drive, because he is taking care of his wife, nor has he driven a cab since the first day as required.

ITEM C: 530 – 47th Avenue. Letter from Brett Horton, Appellant, requesting rehearing of Appeal No(s). 02-164 & 02-169, Horton vs., DBI, PDA, decided Nov. 20, 2002. Upon motion by Commissioner Saunders, the Board voted 5-0 to uphold both subject permits. Project: remodel downstairs family room, bath and laundry; remodel ground floor bedrooms and stairway to 2nd floor; add 2nd floor master bedroom, bath and closet; seismic, electrical and mechanical upgrades. Dry rot repair and foundation cap, new slab on grade, plumbing and electrical repair as required, all interior work only. Permit Holder(s): Ed Villhauer.

ACTION: Upon motion by Commissioner Saunders, the Board voted 5-0 to deny the request for rehearing.

SPEAKERS: Brett Horton, Requestor, said that DBI has done nothing on the permit yet and has issued no citations to the permit holder. Alice Barkley, attorney for the Permit Holder, said that the request should be denied since no new evidence was being offered

ITEM D: 888 Elizabeth Street. Letter from Lowell Buckner, Requestor/Permit Holder, asking that the Board take jurisdiction over Building Permit Application No(s). 2002/07/16/1531 for the purpose of filing a penalty appeal.

Date Permit Issued:	July 16, 2002
Last Day to Appeal:	July 31, 2002
Date Jurisdiction Request Received:	Dec. 3, 2002

ACTION: Upon motion by Commissioner Shoemaker, the Board voted 5-0 to grant the jurisdiction request.

SPEAKERS: Laurence Kornfield said that the Department has no objection to the Board allowing a late filing in this matter.

(4) **APPEAL NO. V02-206**

LARRY RICHARDS, Appellant(s)
vs.

ZONING ADMINISTRATOR, Respondent

[1301-1327 Polk Street.
[Protesting the granting on October 11, 2002, [to Mercy Housing California c/o Jennifer Dolin, [Rear Yard, Usable Open Space & Dwelling [Unit Exposure Variance(s) (convert the [residential and tourist hotel rooms on the 2nd [through 5th floors of the existing building into [72 units of senior housing).
[VARIANCE CASE NO. 2002.0346V.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Saunders, the Board voted 4-0 to recuse Commissioner Shoemaker. Afterwards, upon motion by Commissioner Saunders, the Board voted 4-0-1 (Commissioner Shoemaker recused) to uphold the subject variance.

SPEAKERS: Larry Richards, Appellant said he is a resident of another building owned by the Applicant and that the ZA hadn't considered that elderly and disabled residents are limited to what they can see out their windows and their views never change. The proposed apartment's residents will suffer and be depressed. He felt a roof deck would alleviate the problem. Larry Badiner, ZA said that if dwelling units are involved that would trigger a rear yard requirement but this is a group housing building. Jeremy Wilkening, representing for the Permit Holder said he would look into the Appellant's concerns about lack of roof deck but the Codes may not permit it, and the roof is sloping not flat, which will be a problem. Jane See, architect said there are too many floors as it is.

NO PUBLIC COMMENT FOR APPELLANT.

PUBLIC COMMENT FOR PERMIT HOLDER: Teresa Yanga, Senior Manager with the Mayor's Office of Housing, said she appreciates the Appellant's comments.

(5) **APPEAL NO. 01-154**

SAILING BILLBOARDS OUTDOOR MEDIA, Appellant(s)
vs.

DEPT. OF BUILDING INSPECTION, Respondent

[60 Broadway.
[Appealing the revocation on August 22, 2001, [of Permit to Erect a Sign (single-faced, painted [wall, with a surface area of 950sf).
[APPLICATION NO. 9908729.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Sugaya, the Board voted 3-2 (Vice President Harrington & Commissioner Saunders dissented) to uphold the revocation.

SPEAKERS: NONE

(6) **APPEAL NO. 02-107**

STEVEN LEE
dba "GLASKAT SUPPER CLUB", Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[520 – 4th Street.
[Appealing a determination dated March 19, [2002, addressed to Steven Lee, that the Police [Permit Application Zoning Referral for an [Extended Hours Premises Permit at the subject [property cannot be approved because such [approval would constitute an intensification of [the legal nonconforming use (nighttime [entertainment) in violation of Planning Code § [181(a), and because the prior Extended Hours [Premises Permits enjoyed at the subject [property were all voluntarily surrendered in [excess of 3 years ago, and Planning Code § [183 prohibits the reestablishment of [nonconforming uses that have been [discontinued for a continuous period of 3 years.
[JURISDICTION GRANTED MAY 29, 2002.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Shoemaker, the Board voted 5-0 to overrule the determination with a finding that the subject Extended Hours Premises permit was never abandoned.

SPEAKERS: Lawrence Badiner, ZA, said there is no clear intent to abandon the use but in fact it was abandoned. Randy Sue Pollock, attorney for Appellant, said that there are extenuating facts which would toll the three-year period. Fred Campagnoli, attorney for the former owner Rick Collier, said the Glaskatt is not like the Trocadero and that the operator of the Glaskat is doing a fine job and that the clientele is more controllable and up-scale.

PUBLIC COMMENT FOR APPELLANT: Terrance Alan, Chairman of the Late Night Coalition, said the police actions have resulted in the creation of an Entertainment Commission which will begin its work in July 2003. He said that safety is an important issue but to close all clubs down at 2:00 a.m. is not good for the industry.

NO PUBLIC COMMENT FOR THE ZONING ADMINISTRATOR.

ITEMS (7A), (7B), (7C) & (7D) SHALL BE HEARD TOGETHER:

(7A) **APPEAL NO. 02-113**

ELIZABETH
& JOHN MILLER, & LYNN HALL, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[166 Yerba Buena Avenue.
[Protesting the issuance on June 13, 2002, to
[Michael Acubado, Site Permit to Erect a
[Building (two-story single-family dwelling with
[2,679sf of ground floor area).
[APPLICATION NO. 2001/07/24/4356S.
[FOR HEARING TODAY.

(7B) **APPEAL NO. 02-114**

ELIZABETH
& JOHN MILLER, & LYNN HALL, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[168 Yerba Buena Avenue.
[Protesting the issuance on June 13, 2002, to
[Michael Acubado, Site Permit to Erect a
[Building (two-story single-family dwelling with
[2,990sf of ground floor area).
[APPLICATION NO. 2001/07/24/4359S.
[FOR HEARING TODAY.

(7C) **APPEAL NO. 02-115**

VINCENT HOGAN, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[166 Yerba Buena Avenue.
[Protesting the issuance on June 13, 2002, to
[Michael Acubado, Site Permit to Erect a
[Building (two-story single-family dwelling with
[2,679sf of ground floor area).
[APPLICATION NO. 2001/07/24/4356S.
[FOR HEARING TODAY.

(7D) **APPEAL NO. 02-116**

VINCENT HOGAN, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[168 Yerba Buena Avenue.
[Protesting the issuance on June 13, 2002, to
[Michael Acubado, Site Permit to Erect a
[Building (two-story single-family dwelling with
[2,990sf of ground floor area).
[APPLICATION NO. 2001/07/24/4359S.
[FOR HEARING TODAY.

ACTION: WITHDRAWN BY THE APPELLANTS.

(8) **APPEAL NO. 02-125**

SIDNEY UNOBSKEY, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[2638 Baker Street.
[Protesting the issuance on July 2, 2002, to [James Newton, Permit to Alter a Building [(remove existing 2nd floor greenhouse and [replace with roof).
[APPLICATION NO. 2002/06/12/8790.
[FOR HEARING TODAY.

ACTION: WITHDRAWN BY THE APPELLANT AT THE HEARING.

SPEAKERS: NONE

(9) **APPEAL NO. 02-136**

TOM TAYLOR, Appellant(s)
vs.

ZONING ADMINISTRATOR, Respondent

[451 Hayes Street.
[Appealing a determination dated July 10, 2002, [addressed to Tom Taylor, that the proposed [sheet metal flowers detailed in Building Permit [Application No(s). 2002/04/25/5019 would have [to have a vertical dimension of no greater than [2 feet 6 inches in order to qualify as a permitted [obstruction over the front setback under [Planning Code § 136.
[APPLICATION NO.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Sugaya, the Board voted 5-0 to uphold the subject determination.

SPEAKERS: Lawrence Badiner, ZA, explained his determination and said the Code is clear and there is a limit in the height of embellishments. Tom Taylor, Appellant, said it won't stick out more than one foot and he sees such construction all over the City. Why was his considered a Code violation?

NO PUBLIC COMMENT FOR EITHER SIDE.

(10) **APPEAL NO. 02-137**

DAVID KNUDSEN, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[2010 Divisadero Street.
[Protesting the issuance on July 15, 2002, to [Saud Family Trust, Site Permit to Erect a [Building (one-story commercial retail building [with 1,100sf of ground floor area).
[APPLICATION NO. 2000/10/30/4397S.
[FOR HEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted 5-0 to uphold the permit with the following condition(s): a) that any illegal billboards be removed from the subject property prior to commencement of construction; b) that the roof be changed to a 1 hour fire-rated roof; c) that the façade remain the same; d) and that the entire building be painted after construction, with the back portion to be painted with white reflective paint.

SPEAKERS: David Knudsen, Appellant, speaking for himself and his neighbors, said that he doesn't oppose the project except he feels it should meet the Commission guidelines and the Code violations should be abated before the project is approved. Elias Saud, Permit Holder, described the history of his efforts to build on the site and said the building will only be one story high. Craig Hudson, architect, said that a variance had been needed for the two-story proposed ten years ago but the proposal now was approved and doesn't need a variance. Lawrence Badiner explained the NC-2 zoning of the site and how the one-story plus mezzanine was permitted.

Public Comment for Zoning Administrator: Patricia Vaughey said the property is an eyesore now and the project will improve the site, which was used for illegal auto repair for years, and strewn with debris.

Public Comment for Permit Holder: Simon Brown said he spoke with the Permit Holder who explained the project to him and that the project meets the Planning and Building Codes.

Public Comment for Appellant: John Schaecher said he feels that billboards must go and said that the height of the project is not clear. Linda Klonde said that the owner hasn't resided on the site for years and that the height of the proposal needs revision. She wants conditions put on the use. Ada Morales said she feels the building will be too high and will block light to her bedroom. She opposes the billboards which are an eyesore.

(11) **APPEAL NO. V02-138**

LISA HONIG, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[322 Rutledge Street.
[Protesting the granting on July 17, 2002, to [Apparatus Architecture c/o Stuart Hills, Rear [Yard & Mass Reduction Variance(s) (add [approximately 47sf of useable floor area, plus [approximately 66sf of balcony space to the rear [of an existing single family dwelling).
[VARIANCE CASE NO. 2002.0377V.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Sugaya, the Board voted 5-0 to uphold the subject variance.

SPEAKERS: Lisa Honig said that she is the adjacent neighbor. She said the project would block windows on the left side of her building. Project should meet Bernal Heights Design Guidelines and that the variance is erroneous since the five requirements are not met and the project will be detrimental to her house. Lawrence Badiner, ZA, said that the Commission had voted against taking DR over project and the project has no precedent on Bernal Heights which has very restrictive regulations. Joel Yodowitz, attorney for the variance holder, said the project will have no significant impact and the Appellant's home is much bigger while his client's variance is minimal with much light reaching Appellant's house.

Public Comment for Variance Holder: David Robbins said that his house is not as big as her house and he's not going as far as she has.

(12) **APPEAL NO. 02-139**

THOMAS J. COATES, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[490 Avila Street.
[Appealing a determination dated July 11, 2002, [addressed to Joel Yodowitz at Ruben & Alter [LLP, that variance case no. 95.442V, granted [on October 10, 1995, which considered the [southeast property line to be the rear property [line, is considered to be accurate and [necessary for the work that was proposed.
[FOR HEARING TODAY.

ACTION: WITHDRAWN BY THE APPELLANT.

(13) **APPEAL NO. 02-141**

MARC GOLDSMITH, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[1012 Divisadero Street.
[Protesting the issuance on July 15, 2002, to [Eric Schleelein & Flora Cheung, Permit to Erect [a Building (one-story garage with 270sf of [ground floor area).
[APPLICATION NO. 2002/01/25/7741.
[FOR HEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted 5-0 to uphold the subject permit due to failure of appellant to appear.

SPEAKERS: NONE.

ITEMS (14A) & (14B) & (14C) SHALL BE HEARD TOGETHER:

(14A) **APPEAL NO. 02-143**

MELINDA HALL, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[2311 – 19th Street.
[Protesting the issuance on July 19, 2002, to [Michael Plotista, Permit to Demolish a Building [(three-story, two-unit residential building with [1000sf of ground floor area).
[APPLICATION NO. 2000/02/29/3108.
[FOR HEARING TODAY.

(14B) **APPEAL NO. 02-144**

MELINDA HALL, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[2311 – 19th Street.
[Protesting the issuance on July 19, 2002, to [Michael Plotista, Site Permit to Erect a Building [(three-story, two-unit building/townhouses with [1600sf of ground floor area).
[APPLICATION NO. 2000/02/29/3109S.
[FOR HEARING TODAY.

(14C) **APPEAL NO. 02-145**

MELINDA HALL, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[705 Utah Street.
[Protesting the issuance on July 19, 2002, to [Michael Plotista, Site Permit to Erect a Building [(three-story, one-unit building/townhouse with [1200sf of ground floor area).
[APPLICATION NO. 2000/02/17/2203.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Sugaya, the Board voted 4-0 to recuse President Chin. Afterwards, upon motion by Commissioner Sugaya, the Board voted 2-2-1 (Vice President Harrington and Commissioner Saunders dissented, President Chin recused) to uphold all 3 permits on condition that the penthouse at 2311 – 19th Street be removed. Four votes being necessary under the City Charter to impose any conditions on a departmental action, the motion failed, and the three subject permits were upheld with no conditions.

SPEAKERS: Steve Williams, attorney for Appellant said he wants President Chin to be recused from this case. He said that there are serious problems with the project and that Utah Street doesn't exist and the proposed building will be the only one on Utah. The merger application at DPW needs new notice and a hearing while the project fails to meet Prop. M policies. David Silverman, attorney for the Permit Holder, addressed the three main issues and said that the demolition was approved by DBI, after an independent report, and the Commission approved on May 24, 2001 after his client did a second report requested by the Appellant which indicates that the existing building is unsafe and should be demolished. The new building will be a modest two-family house with an envelope smaller than it was. Lawrence Badiner, explained that unsound housing is defined in the Building Code not Planning Code and that Code violations make it unsound. He said the proposal complies with the Residential Design Guidelines and the site is a lot of record and not open space. This is a small plot left by Caltrans after it built the freeway.

PUBLIC COMMENT FOR APPELLANT: Heather Villasena said the proposal is not in character with the neighbor and said the proposal is large and imposing and impacts generally on the lives of the neighbors with the fourth floor impacting on their privacy, and that Fire Department Captain Ballard said it must go back to Planning. Don Kimball said he objects to use of Utah Street and that the project is a subversion of the RH-2 principles. He feels all Commissioners should visit the site. Marcello Urbani of 704 San Bruno said it will have catastrophic impact on the community. Yuhum Digdigan, RN, submitted a letter from Senator Burton and said the project is overblown and is not respectful of its neighbors and the wall will shadow her friend's yard. Sharon Radich said she opposed because of the safety issues presented by lack of access for emergency vehicles. Anna Tanato said that there is solidarity in the neighborhood and she agrees with the previous speakers. Stephen Casey, 724 San Bruno said the project would take away quality of the area. William Abend, architect for the Permit Holder, said the existing building was built in 1900 and only one alteration permit has been issued for the site in 102 years, and that for the storage room downstairs only.

NO PUBLIC COMMENT FOR PERMIT HOLDER.

(15) **APPEAL NO. 02-148**

IAN BERKE, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[2606/2610 Jackson Street.
[Protesting the issuance on July 30, 2002, to [Mark Perry, Site Permit to Alter a Building (two [adjacent residences with zero lot lines are to be [joined into one residence).
[APPLICATION NO. 2001/12/24/5878S.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Shoemaker, the Board voted 1-4 (President Chin, Vice President Harrington and Commissioners Sugaya & Saunders dissented) to revoke the subject permit. Four votes being necessary under the City Charter to overturn any departmental action, the motion failed, and the subject permit was upheld.

SPEAKERS: Ian Berke, Appellant, said this will set a bad precedent and lead to more mergers of houses in Pacific Heights. The general Plan discourages such mergers and doesn't differentiate expensive housing. Policies aren't to protect only middle and lower classes, but should also apply to upper class. Mark Perry, Permit Holder, said he needs larger house and meger will allow for expanding family and wife's illness. Lawrence Badiner, ZA, said the Commission found the project to be well designed by an outstanding architect.

PUBLIC COMMENT FOR APPELLANT: Bill Henslin said he opposes project because it reduces housing opportunity in Pacific Heights. Judith Duffy said she agrees with the previous speakers. Linda Klonda said she lives a block away and urges the Board to disapprove the project which is a destruction of units. Michael Stenberg said he objects to the marriage of two houses and asked what if someone wants to merge three houses into one. Patricia Vaughey, asked what is the Master Plan in light of this humpty dumpty effort which causes the loss of an affordable unit and will be a bad precedent.

PUBLIC COMMENT FOR PERMIT HOLDER: Steve Bolton said he commends the Permit Holder for his efforts to reach out to the neighbors and he likes the architecture of the project because it blends in so well. Sherry Levitt, said that she is very sensitive to what is going on and is in agreement with the Commission. Here there is total compliance with the Code. Bob Ellis said he is neighbor of Permit Holder and that the design is in-line with the neighborhood. Ray Bennett said Permit Holders are quality people and the project is in harmony with the neighborhood. Mary Murphy, attorney for the Permit Holder in rebuttal said that the houses were never rentals and the merger will cause no evictions and will have no impact with the affordable housing stock and that all the merger criteria have been met.

(16) **APPEAL NO. 02-149**

PEDRO MEREL, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[3873 – 3875 – 17th Street.
[Protesting the issuance on July 25, 2002, to
[Andrew Goldfarb & Chris Nordquist, Site Permit
[to Alter a Building (rear addition onto 3-story
[residence).
[APPLICATION NO. 2001/06/22/2235S.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Saunders, the Board voted 5-0 to uphold the subject permit.

SPEAKERS: Pedro Merel, Appellant, said this nine-foot addition will impact him and will block the sun to his two apartments in the rear, and they never had much sun. John Lum, architect for

Permit Holder, described the project which he said met all Codes. It is set back on both sides and is a minor addition of only nine feet.

NO PUBLIC COMMENT FOR EITHER SIDE.

(17) **APPEAL NO. V02-154**

DONALD PERSKY, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[2540 Clay Street.
[Protesting the granting on August 1, 2002, to [Allan Levy, Rear Yard Variance (construct a [second floor deck and spiral stair that [encroach into the required rear yard).
[VARIANCE CASE NO. 2002.0331V.
[FOR HEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted 5-0 to uphold the variance on condition that the variance holder pay for the raising of appellant's fence which touches the subject property to 10 feet, either by reconstructing the fence or by adding lattice to the existing fence.

SPEAKERS: Lucian Blazej representing the Appellant, said that privacy is the issue. Donald Persky, Appellant, said he and his family live behind subject lot and he is the most impacted by the project. He wants to maintain reasonable privacy for his garden which is awesome. Rod Holt, Variance Holder, said he wanted to compromise but his four suggestions were rejected. Allan Levy, architect, said he can show that his client can't see into the neighbor's garden while standing or sitting on the deck. He said his client had offered to pay for half the cost of a fence if no appeal was filed but this was not accepted. He described the four ways the project was revised to reduce impact of privacy on neighbor.

PUBLIC COMMENTS FOR APPELLANT: Katherine Toms said deck can be lowered so that no one can see into kitchen or sun porch. Lawrence Badiner, ZA said that how units are separated is an unrelated issue. Valerie Persky, Co-Appellant, said that all their requests have been rejected. She said the downstairs tenants use the garden as part of their apartment.

NO PUBLIC COMMENT FOR VARIANCE HOLDERS.

(18) **APPEAL NO. 02-155**

JERRY & SANDRA PETERSON, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[372-374 Pennsylvania Ave.
[Appealing a Notice of Violation dated July 30, [2002, addressed to Jerry & Sandra Peterson [and Andrew Zacks, that the subject property is [being operated as a tourist motel without a [Conditional Use (CU) permit in violation of [Planning Code § 303; that the 3 dwelling units [on the subject property exceed the allowable [density in an RH-2 zoning district in violation of

[Planning Code § 209.1; and that the basement [is being used as lodging for a tourist motel in [violation of Notice of Special Restrictions [(NSR) #F373820 & Planning Code § 174.
[FOR HEARING TODAY.

ACTION: WITHDRAWN BY THE APPELLANTS PRIOR TO HEARING.

SPEAKERS: NONE.

(19) **APPEAL NO. 02-157**

DEE ANN YABUSAKI, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[155 Rivoli Street.
[Protesting the issuance on July 30, 2002, to [Chris Husband, Permit to Alter a Building [(expansion of habitable space into existing [gabled roof attic, removal of part of roof and [construction of new dormers and removal of [part of roof and construction of a new flat roof [and roof deck).
[APPLICATION NO. 2002/02/26/0108.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Shoemaker, the Board voted 5-0 to uphold the permit on condition that the parapet be 4 feet all around, with a 2-foot lattice on top of the parapet that faces the west, and for the said lattice to wrap around the corner for 2 feet at a 45 degree angle.

SPEAKERS: Dee Ann Yabusaki, Appellant, said she just objects to lack of privacy project causes and that no concessions have been make by the Permit Holder. She objects to the roof deck which is a bad precedent in this neighborhood. Chris Husband, permit Holder, explained his project which increases his usable open space significantly and said they have been unable to reach an agreement.

NO PUBLIC COMMENT FOR EITHER SIDE.

(20) **APPEAL NO. V02-163**

OPERA PLAZA
HOMEOWNERS ASSOCIATION, Appellant(s)
vs.
ZONING ADMINISTRATOR, Respondent

[724-730 Van Ness Avenue.
[Protesting the granting on August 13, 2002, to [724 Van Ness Associates LLC, Parking & Rear [Yard Requirement Modifications, & Off-Street [Freight Loading Variance (modification of the [parking requirement to permit a reduction from [141 to 51 independently accessible off-street [parking spaces; modification of the rear yard

[requirement for a building located [approximately 36 feet from the rear lot line [where approximately 40 feet would be [required; and elimination of the one off-street [freight loading space requirement by providing [two service vehicle spaces).
[VARIANCE CASE NO. 2001.0535CEKV.
[FOR HEARING TODAY.

ACTION: Upon motion by Commissioner Saunders, the Board voted 5-0 to uphold the subject variance and modifications, on condition that a car usage survey be performed, to be paid for by the variance holder but to be directed by Planning staff, with findings to be prepared by the variance holder's attorney to be adopted at a later date.

SPEAKERS: Lawrence Badiner, ZA, explained the modification of the freight loading requirements which require a variance under the zoning controls. Charles Renati, attorney for the Appellants, said the parking standard is not 1:4 but is 1:1. He said that the five requirements for a variance have not been met and that no variance is justified to reduce the number of parking spaces required by this project. John Sanger, attorney for the Modification Holder, described the project which is for middle income people in the Civic Center area. He said the parking modification doesn't require variance approval but the modification of freight loading dock does.

NO PUBLIC COMMENT FOR EITHER SIDE.

(21) **APPEAL NO. 02-167**

EVELYN KAY ELLIOTT, Appellant(s)
vs.

DEPT. OF BUILDING INSPECTION,
Respondent
PLANNING DEPT. APPROVAL

[40-48 Wilmot Street.
[Protesting the issuance on August 9, 2002, to [Thomas & Tracy Iseler, Site Permit to Alter a [Building (interior renovation at all levels, minor [vertical addition, removal of illegal unit to [become 2 units total, and new rear stairs).
[APPLICATION NO. 2001/08/13/5931S.
FOR HEARING TODAY.

ACTION: WITHDRAWN BY THE APPELLANT PRIOR TO HEARING.

SPEAKERS: NONE

(22) **APPEAL NO. 02-168**

PHILIP B. HOROWITZ, Appellant(s)
vs.
DEPT. OF PUBLIC WORKS, Respondent

[157 Fillmore Street.
[Protesting the issuance on August 12, 2002, to
[Francisco C. Lovato dba "Health Wise for Pets",
[Display Merchandise Permit.
[ORDER NO. 173,671.
[FOR HEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted 5-0 to uphold the subject permit.

SPEAKERS: Philip Horowitz, Appellant, said that DW didn't follow its own requirements in making this decision. He said he wants the sidewalk kept clear and that the so-called merchandise display are just illegal signs. Francisco Lavato, Permit Holder, said he has a special chrome rack and that this is a busy intersection with many deliveries and that he was with all the other sidewalk users. He said the restaurant has 24 garbage cans and there are businesses up and down the street, many with sidewalk display racks. He has no control over deliveries to other businesses which block the sidewalk.

NO PUBLIC COMMENT FOR EITHER SIDE.

(23) **APPEAL NO. 02-170**

HANSON LEE, Appellant(s)
vs.
DEPT. OF BUILDING INSPECTION, Respondent
PLANNING DEPT. APPROVAL

[2670 – 47th Avenue.
[Protesting the issuance on August 21, 2002, to
[Alfred Lee, Site Permit to Alter a Building (two
[story rear addition).
[APPLICATION NO. 2002/01/09/6578S.
[FOR HEARING TODAY.

ACTION: Upon motion by President Chin, the Board voted 4-0-1 (Commissioner Saunders absent) to uphold the subject permit on condition that the interior stairs at the rear be eliminated, and that the family room wall be pushed back to make room for 2 tandem parking spaces.

SPEAKERS: Hanson Lee, Appellant, said that Alfred Lee, the Permit Holder, wouldn't speak to him and showed no consideration for the neighborhood so he pursued the DR because he is concerned with this multi-family use. The addition will add 1928 sf to the house, and he wants modifications to the plans. Jeremy Paul, consultant for Permit Holder Alfred Lee said the area is underutilized and has potential for housing and that the old style houses are obsolete. He feels the Commission has modified the project sufficiently.

Public Comment for Appellant: Ian Pillay said many families have moved into the area over the past 15 years into the existing houses. He tried to work with the developer but his calls weren't returned. He said the area is overcrowded already and he opposes this large addition. Project is not in character with the neighborhood.

NO PUBLIC COMMENT FOR PERMIT HOLDER.

There being no further business President Chin adjourned the meeting at 12:45 a.m.

Arnold Y. K. Chin, President

Robert H. Feldman, Executive Secretary

Transcripts of these hearings can be obtained from Ms. Claudine Woeber, the Official Court Reporter, 833-7561